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Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

Addendum

Further to my reports of 16 September 1999, 23 December 1999, 3 March 2000, 6 June 2000, 18 September 2000, 18 December 2000 and 13 March 2001 (S/1999/987 and Add.1, S/1999/1250 and Add.1, S/2000/177 and Add.1-3, S/2000/538 and Add.1, S/2000/878 and Add.1, S/2000/1196 and Add.1 and S/2001/218), the texts of regulations 2000/62-69 and 2001/1-4 issued by my Special Representative are attached herewith for the information of the members of the Security Council.

01-30628 (E) 300301

REGULATION NO. 2000/62

ON THE EXCLUSION OF PERSONS FOR A LIMITED DURATION TO SECURE PUBLIC PEACE, SAFETY AND ORDER

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo and UNMIK Regulation No. 1999/2 of 12 August 1999 on the Prevention of Access by Individuals and their Removal to Secure Public Peace and Order,

For the purpose of maintaining public peace, safety and order,

For the purpose of protecting and promoting human rights,

Considering that the exercise of the right to liberty of movement should not jeopardize civil law and order or the protection of the rights and freedoms of others,

Considering the ongoing threats to the civil law and order in Kosovo, or which originate in Kosovo,

Without prejudice to any actions that may be taken by KFOR pursuant to United Nations Security Council Resolution 1244 (1999),

Hereby promulgates the following:

Section 1
Definitions

For the purposes of the present regulation:

(a) "relevant law enforcement authority" shall mean the international security presence in Kosovo, known as KFOR and the Civilian Police of the United Nations Interim Administration Mission in Kosovo (UNMIK), also known as the United Nations International Police or as UNMIK Police;

(b) — "exclusion order" shall mean an order issued by the relevant law enforcement authority requiring a person to leave and/or stay away from any area in Kosovo.

Section 2
Exclusion Order

2.1 The relevant law enforcement authorities may issue an exclusion order requiring a person to leave and/or stay away from any area under their authority if there are grounds to suspect that such a person is or has been involved in the commission, preparation or instigation of acts of violence which may affect public peace and order within or beyond the territory of Kosovo.

2.2 An exclusion order shall be for a limited duration not exceeding thirty (30) days. The order must be issued to the person in writing, identify the geographic area the person must leave and/or stay away from and notify the person that a violation of the order is a criminal offense punishable by up to two (2) months imprisonment. Notification of the right to petition for a review of the order, as set forth in section 3 of the present regulation, shall be provided.

2.3 The level of authority required for the issuance of such an order shall be defined in an administrative direction.

Section 3
Review of Exclusion Order

3.1 A person who is the subject of an exclusion order issued pursuant to section 2 of the present regulation may petition for a review of the order in the district court of any region from which he or she is not excluded. Such a petition may also be filed by a legal representative or family member of the person in the district court of any region.

3.2 An international judge in the competent district court shall review an exclusion order, upon a petition brought by the persons referred to in section 3.1.

3.3 When reviewing the order, the judge shall convene a public hearing permitting an adversarial debate between the person who is the subject of the order or his legal representative and the prosecutor or the law enforcement authorities who issued the order. The judge shall consider: whether the criteria set forth in section 2.1 apply; the person's links with the specified area, such as related to family, employment or business; and whether the order requiring the person to leave and/or stay away from the specified area may subject him or her to persecution within the meaning of the 1951 Convention on the Status of Refugees. The judge will have authority to approve, rescind or amend the order.

3.4 The judge shall issue a reasoned judgment on the order within seven (7) days of receiving the petition for a review of the order. If a decision is not issued within this time, then the exclusion order shall cease to have effect at the expiration of this time limit.

3.5 A petition brought pursuant to this section shall not stay the execution of an exclusion order.

Section 4
Penalties

A violation of an exclusion order is a criminal offence punishable by imprisonment for up to two (2) months. The case shall be prosecuted in a district court before an international judge. The decision shall be rendered after a public hearing permitting an adversarial debate within eight (8) days of the notification of the charge. Upon conviction, the execution of sentence shall be enforced immediately, without any stay notwithstanding any appeal. For the purposes of the present regulation the provisions of articles 183 and 281 of the FRY Code of Criminal Procedure are modified so that the summons requiring the accused to appear in court shall be delivered by the law enforcement authorities not later than 48 hours before the time set for the hearing. In the event that a person is detained while allegedly in violation of an exclusion order, an accelerated trial date may, upon request, be established so as to allow for the hearing of the case within the time limit of police custody. The accused shall have access to defence counsel upon notification of the charge.

Section 5
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

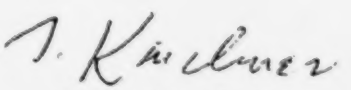
Section 6
Applicable Law

6.1 The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

6.2 Nothing in the present regulation shall affect the power of the relevant law enforcement authorities to temporarily remove a person from a location or prevent access by a person to a location in accordance with UNMIK Regulation No. 1999/2.

Section 7
Entry into Force

The present regulation shall enter into force on 30 November 2000 and shall remain in force for an initial period of six months. Upon review, the Special Representative of the Secretary-General may determine that circumstances warrant the extension of the regulation for an additional six months.



Bernard Kouchner
Special Representative of the Secretary-General

REGULATION NO. 2000/63

ON THE ESTABLISHMENT OF THE ADMINISTRATIVE DEPARTMENT OF TRADE AND INDUSTRY

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244(1999) of 10 June 1999,

Taking into account United Nation Interim Administration in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of Interim Administration in Kosovo and UNMIK Regulation No. 2000/1 of 14 January 2000 on the Kosovo Joint Interim Administration Structure,

For the purpose of establishing the Administrative Department of Trade and Industry,

Hereby promulgates the following:

Section 1
Administrative Department of Trade and Industry

1.1 The Administrative Department of Trade and Industry (hereinafter "the Department") is hereby established.

1.2 The Department shall be responsible for the overall management of matters related to trade and industry in Kosovo.

1.3 The Department shall implement policy guidelines formulated by the Interim Administrative Council in the field of trade and industry.

Section 2
Functions

2.1 The Department may make policy recommendations to the Interim Administrative Council through the Deputy Special Representative of the Secretary-General for Economic Reconstruction, Recovery and Development concerning, *inter alia*

(a) The establishment of a regulatory framework for:

(i) business in Kosovo appropriate to a market economy, including business formation, registration, and governance; securities regulation; insolvency, bankruptcy and liquidation; foreign investments regulation; the integration of informal economic activity into the formal sector;

(ii) consumer protection;

(iii) economic competition;

(iv) protection of intellectual property, consistent with international standards;

(v) resolving ownership issues related to non-residential property;

(vi) international commercial transactions, in coordination with the UNMIK Customs Service and consistent with the rules of the World Trade Organization;

(b) The reconstruction and development of industrial and commercial enterprises;

(c) Support for small and medium sized enterprises in Kosovo;

(d) The attraction of foreign investment to Kosovo, including providing information to potential investors, matching potential investors with local partners, assisting investors in obtaining necessary licenses or other authorizations, compiling and publishing foreign investment data and working with other administrative departments to encourage foreign investment; and

(e) Other matters generally related to the development of trade and industry in Kosovo.

2.2 Where the Special Representative of the Secretary-General has determined pursuant to section 6 of UNMIK Regulation No. 1999/1, as amended, that an enterprise in the territory of Kosovo shall be administered by UNMIK for the time being without prejudice to its future status, the Department may, subject to section 2.4 below:

(a) Act as administrator or trustee with respect to such an enterprise, including administering moneys, bank accounts and other assets, separately from the Kosovo Consolidated Budget, and granting concessions or leases with respect to such property;

(b) Set fees, as may be required, for departmental services provided to the public;

(c) Enter into insurance contracts, including indemnity insurance for itself or for enterprises where the Department is acting as administrator;

(d) Require those persons who are or appear to be responsible for the management of the enterprise to provide such information about the enterprise and their involvement in it as the Department may determine;

(e) Require those persons who are or appear to be responsible for the management of the enterprise to surrender control of asset(s) of the enterprise to the Department, or to demonstrate to the Department's satisfaction that such asset(s) are not related to the enterprise; and

(f) Enter into arrangements for the lease, management, reconstruction or reorganization of the enterprise in the interest of Kosovo.

2.3 The Department shall perform its functions under section 2.2 above in compliance with requirements established by the Central Fiscal Authority under the relevant regulations and administrative directions.

2.4 The Department's responsibility under section 2.2 above shall be limited to enterprises that are industrial or commercial in nature. Enterprises providing basic infrastructure or services such as utilities, transportation and telecommunications; enterprises providing social services such as education, health, housing, and cultural activities; enterprises the responsibility for the administration of which is assigned to another Administrative Department; and enterprises the responsibility for the administration of which is specifically assigned to a Municipality under relevant regulations or administrative directions are outside the scope of the Department's responsibilities.

2.5 Determinations by the Special Representative of the Secretary-General pursuant to section 2.2 above shall be without prejudice to the right of any person or entity to assert ownership or other rights in the property in a competent court in Kosovo, or in a judicial mechanism that may be established in a subsequent regulation.

Section 3
Co-Heads of the Department

Co-Heads of the Department, under the supervision of the Deputy Special Representative of the Secretary-General for Economic Reconstruction, Recovery and Development, shall be jointly responsible for:

(a) Managing the Department and ensuring that the functions entrusted to it are implemented;

(b) Staffing, organizing and administrating the Department and issuing administrative instructions and operating guidelines on any matters pertaining to the functions of the Department; and

(c) The effective and efficient management of resources provided to the Department from the Kosovo Consolidated Budget or from any other source.

Section 4
Personnel and Employment Policies

Co-Heads of the Department shall:

(a) Implement non-discriminatory personnel policies designed to ensure that the composition of the staff of the Department reflects the multi-ethnic character of Kosovo;

(b) Endeavor to ensure equitable gender representation in all areas and levels within the Department; and

(c) Ensure that recruitment of the staff of the Department is based on professional qualification, competence and merit and is undertaken through fair and open competition

Section 5
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 6
Applicable Law

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 7
Entry into Force

The present regulation shall enter into force on 7 December 2000.

B. Kouchner

Bernard Kouchner
Special Representative of the Secretary-General

REGULATION NO. 2000/64

15 December 2000

ON ASSIGNMENT OF INTERNATIONAL JUDGES/PROSECUTORS

AND/OR CHANGE OF VENUE

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Recognizing the responsibility of the international civil presence to maintain civil law and order and protect and promote human rights,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo and UNMIK Regulation No. 2000/6 of 15 February 2000, as amended, on the Appointment and Removal from Office of International Judges and International Prosecutors,

Recognizing that the presence of security threats may undermine the independence and impartiality of the judiciary and impede the ability of the judiciary to properly prosecute crimes which gravely undermine the peace process and the full establishment of the rule of law in Kosovo,

For the purpose of ensuring the independence and impartiality of the judiciary and the proper administration of justice,

Hereby promulgates the following:

Section 1

Recommendation for Assignment of International Judges/Prosecutors and/or Change of Venue

1.1 At any stage in the criminal proceedings, the competent prosecutor, the accused or the defence counsel may submit to the Department of Judicial Affairs a petition for an assignment of international judges/prosecutors and/or a change of venue where this is considered necessary to ensure the independence and impartiality of the judiciary or the proper administration of justice.

1.2 At any stage in the criminal proceedings, the Department of Judicial Affairs, on the basis of the petition referred to in section 1.1 above or on its own motion, may submit a recommendation to the Special Representative of the Secretary-General for the assignment of international judges/prosecutors and/or a change of venue if it determines that this is necessary to ensure the independence and impartiality of the judiciary or the proper administration of justice.

1.3 The Special Representative of the Secretary-General shall review a recommendation submitted by the Department of Judicial Affairs and signify his approval or rejection thereof. Such a review shall not stay the ongoing criminal proceedings.

Section 2

Designation of International Judges/Prosecutors and/or New Venue

2.1 Upon approval of the Special Representative of the Secretary-General in accordance with section 1 above, the Department of Judicial Affairs shall expeditiously designate:

(a) an international prosecutor,

(b) an international investigating judge, and/or

(c) a panel composed only of three (3) judges, including at least two international judges, of which one shall be the presiding judge, as required by the particular stage at which the criminal proceeding has reached in a case.

2.2 Upon designation by the Department of Judicial Affairs, in accordance with the present regulation, international judges and international prosecutors shall have the authority to perform the functions of their office throughout Kosovo.

2.3 Upon approval of the Special Representative of the Secretary-General, in accordance with section 1 above, the Department of Judicial Affairs shall expeditiously designate a new venue for the conduct of criminal proceedings.

2.4 A new venue or panel shall not be designated:

(a) for a trial, once a trial session has already commenced. This will not bar the designation of a new venue or panel, in accordance with the present regulation, during a subsequent review of an appeal or an extraordinary legal remedy; and

(b) for appellate review once an appellate panel session has already commenced. This will not bar the designation of a new venue or panel, in accordance with the present regulation, during a subsequent review of an extraordinary legal remedy.

2.5 A decision of the Department of Judicial Affairs regarding the designation of a new venue, an international judge, an international prosecutor and/or an international panel shall be communicated immediately to the president of the competent court, the prosecutor, the accused and the defence counsel.

Section 3

Applicable Law

3.1 The present regulation shall supersede any other provision in the applicable law which is inconsistent with it.

3.2 Nothing in the present regulation shall affect the authority and responsibility of an international judge or an international prosecutor to perform the functions of his or her office, including to select and take responsibility for new and pending criminal cases, in accordance with UNMIK Regulation No. 2000/6, as amended.

Section 4

Entry into Force

The present regulation shall enter into force on 15 December 2000 and shall remain in force for an initial period of twelve (12) months. Upon review, this period may be extended by the Special Representative of the Secretary-General.

Bernard Kouchner

Special Representative of the Secretary-General

REGULATION NO. 2000/65

AMENDING UNMIK REGULATION NO. 2000/21 ON THE ESTABLISHMENT OF THE CENTRAL ELECTION COMMISSION

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

Having promulgated UNMIK Regulation No. 2000/21 on the Central Election Commission of 18 April 2000,

For the purpose of making adjustments to cover responsibilities for preparation and conduct of Kosovo-wide elections,

Hereby amends sections 2 and 4 of UNMIK Regulation No. 2000/21,

Consequently, the regulation will have the following wording as of the date on which the present regulation enters into force:

REGULATION NO. 2000/21

ON THE ESTABLISHMENT OF THE CENTRAL ELECTION COMMISSION

The Special Representative of the Secretary-General

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

For the purpose of establishing a Central Election Commission and conducting elections,

Hereby promulgates the following

Section 1
Establishment of the Central Election Commission

The Central Election Commission shall be independent and impartial

Section 2
Composition of the Commission

2.1 The Central Election Commission shall be composed of nine Kosovar members and three international members. The Deputy Special Representative of the Secretary-General for Institution Building shall be the Chairperson. The Chairperson and members, and alternates who will sit for them in their absence, shall be appointed by the Special Representative of the Secretary-General. Their term of office shall be two years, subject to earlier termination of an appointment by the Special Representative of the Secretary-General.

2.2 No member shall hold any public office, high party office or be a candidate for elections

Section 3
Oath or Declaration

Upon appointment, each member of the Central Election Commission shall subscribe to a solemn oath or declaration before the Special Representative of the Secretary-General, in the following form:

"I swear (or solemnly declare) that I will perform my duties as a member of the Central Election Commission honourably, faithfully, impartially, professionally and conscientiously."

Section 4
The Functions of the Central Election Commission

4.1 The Central Election Commission shall be responsible for the conduct of elections in Kosovo

4.2 The Central Election Commission shall prepare, in accordance with Section 5, the basic rules which shall govern the conduct of elections in Kosovo, including Kosovo-wide and municipal elections to be submitted to the Special Representative of the Secretary-General for promulgation as a regulation. These basic rules shall include the following:

(a) Duration of the term of office for elected officials;

(b) Selection of an appropriate electoral system;

(c) Authority of the Special Representative of the Secretary-General to certify the registration process and the final result; and

(d) Authority of the Special Representative of the Secretary-General to set and announce the date of elections.

4.3 The Central Election Commission shall prepare and issue electoral rules relating to the implementation of a regulation as referred to in Section 4.2 and the conduct of elections, including the following:

(a) Definition and design of sensitive electoral material, including the design of the ballot paper;

(b) Accreditation of domestic and international observers;

(c) Political party, coalition and candidate registration;

(d) Establishing all necessary procedures for the conduct of Kosovo-wide elections;

(e) Establishing competent authorities responsible for the conduct of elections, such as Municipal Election Commissions and polling station committees;

(f) Voter registration provisions;

(g) Polling and counting procedures;

(h) Voter information;

(i) An electoral code of conduct; and

(j) The creation of an electoral complaints body to ensure that actions/sanctions are taken to address any violation of electoral rules and of any other regulations or rules governing the elections.

4.4 The Special Representative of the Secretary-General, pursuant to his authority under Security Council resolution 1244 (1999), may suspend or revoke any electoral rule or decision issued or made under Section 4.3.

Section 5
Decisions of the Commission

5.1 The Central Election Commission shall take decisions by consensus. If no consensus can be reached by following the practices, and within the time limits established by the rules of procedure for the Central Election Commission in accordance with Section 6, the Chairperson shall decide and his or her decision shall be final and binding.

5.2 No member shall participate in the decision of a case in which the member or a family member has a conflict of interest of a personal, financial or other nature, which may question the ability of the member to act impartially.

Section 6
Procedures

The Central Election Commission shall establish rules of procedure for its activities.

Section 7
Voter Eligibility for the First Municipal Elections

7.1 A person residing in Kosovo shall be registered to vote provided he or she is registered in the Central Civil Registry established by UNMIK and meets the voter eligibility requirements as established by administrative direction. Such person may, at his or her option, vote for either the municipality of his or her residence on 1 January 1998 or for the municipality of current residence.

7.2 A person who is residing outside Kosovo and who left Kosovo on or after 1 January 1998, may register to vote on a separate voters' register, provided that he or she meets the criteria in UNMIK Regulation No. 2000/13 of 17 March 2000 on the Central Civil Registry for being a habitual resident of Kosovo and the voter eligibility requirements as established by administrative direction. Such a person shall be eligible to vote for the municipality where he or she resided on 1 January 1998.

7.3 The Special Representative of the Secretary-General may decide, in exceptional circumstances, to allow additional groups of persons to register to vote who are not eligible to vote under sections 7.1 and 7.2. Such decisions shall be given effect through the issuance of an administrative direction.

Section 8
Entry into force

The present regulation[1] shall enter into force on 19 December 2000.

Bernard Kouchner
Special Representative of the Secretary-General

[1] The original regulation entered into force on 13 April 2000.

REGULATION NO. 2000/66

ON BENEFITS FOR WAR INVALIDS OF KOSOVO AND FOR THE NEXT OF KIN OF THOSE WHO DIED AS A RESULT OF THE ARMED CONFLICT IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

Recalling UNMIK regulations establishing Administrative Departments, and in particular, UNMIK Regulation No. 2000/10 of 3 March 2000 on the Establishment of the Administrative Department of Health and Social Welfare,

For the purpose of providing special arrangements for the benefit of the war invalids of Kosovo and for the benefit of the next of kin of those who died as a result of the armed conflict in Kosovo,

Hereby promulgates the following:

Section 1
Definitions

1.1 For the purpose of the present regulation, a "war invalid" means any person who has received physical injury as a direct result of the armed conflict in Kosovo, the minimum level of such injury being defined in an administrative direction issued by the Special Representative of the Secretary-General.

1.2 The terms "war invalids" and "those who died as a result of the armed conflict in Kosovo", as used in the present regulation, shall cover combatants, including members of the former KLA, and civilians.

1.3 The term "next of kin", as used in the present regulation, shall be defined, as appropriate, by administrative direction issued by the Special Representative of the Secretary-General.

1.4 The terms "war invalids" and "next of kin", as used in the present regulation, shall include only persons who qualify as habitual residents of Kosovo, in accordance with section 3 of UNMIK Regulation No. 2000/13 of 17 March 2000 on the Central Civil Registry.

1.5 For the purpose of the present regulation, the armed conflict in Kosovo is deemed to have occurred between 27 February 1998 and 20 June 1999.

Section 2
Benefits

2.1 Benefits under the present regulation shall include:

(a) financial payments for war invalids;

(b) free access to the medical care provided in governmental health centers and rehabilitation centres in Kosovo for war invalids and their next of kin;

(c) exemption from sales tax, excise tax and customs duties on vehicles adapted for the specific disability of the war invalid;

(d) financial payments for the next of kin of those who died as a result of the armed conflict in Kosovo.

2.2 Procedures in connection with benefits provided for under the present regulation shall be set forth in administrative instructions issued by the competent Administrative Departments.

Section 3
Special Fund

3.1 A Special Fund shall be established to provide special benefits for eligible war invalids and the next of kin of those who died as a result of the armed conflict in Kosovo, including limited financial payments within the resources allocated for this purpose in the Kosovo Consolidated Budget and additional contributions through the Kosovo Consolidated Budget.

3.2 The Special Fund shall be administered by the Administrative Department of Health and Social Welfare.

Section 4
Eligibility

4.1 The eligibility of individual war invalids to receive the benefits paid under the Special Fund shall be determined by the Administrative Department of Health and Social Welfare taking into account the level of disability of the war invalids. Individual entitlements shall be established in accordance with the level of disability of war invalids as determined by the Central Medical Panel, established by the Administrative Department of Health and Social Welfare.

4.2 Categories of beneficiaries, levels of disability and corresponding entitlements shall be set forth in an administrative direction issued by the Special Representative of the Secretary-General.

4.3 In order to obtain benefits paid under the Special Fund, war invalids shall present special identification documents issued by the Administrative Department of Health and Social Welfare. The identification documents shall indicate the level of disability of the war invalid.

4.4 The Administrative Department of Health and Social Welfare shall determine the eligibility of the next of kin of those who died as a result of the armed conflict in Kosovo to receive the benefits paid under the Special Fund.

4.5 No benefits under the present regulation shall be made available to any person in respect of the death or injury of an individual that occurred while that individual was carrying out acts determined by a competent judicial tribunal to constitute war crimes or crimes against humanity.

4.6 Notwithstanding the temporal scope of the term "armed conflict" as set out in section 1.5 of the present regulation, the Special Representative of the Secretary-General may, on the recommendation of the Administrative Department of Health and Social Welfare, authorize the granting of benefits referred to in section 2.1 of the present regulation to war invalids and next of kin in special cases where exceptional humanitarian circumstances so warrant.

Section 5
Reconsideration and Review

5.1 Individuals who apply for benefits under the present regulation shall have the right to seek reconsideration of administrative determinations made by the Central Medical Panel or the Administrative Department of Health and Social Welfare as to eligibility for and level of entitlement to such benefits, pursuant to procedures set forth in an administrative direction issued by the Special Representative of the Secretary-General.

5.2 Applicants referred to in section 5.1 of the present regulation shall have the right to seek judicial review of final administrative determinations in accordance with the applicable law.

Section 6
Implementation

The Special Representative of the Secretary-General may issue administrative directions in connection with the implementation of the present regulation.

Section 7
Applicable Law

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 8
Entry into Force

The present regulation shall enter into force on 7 December 2000.

Bernard Kouchner
Special Representative of the Secretary-General

REGULATION NO. 2000/67
UNMIK/REG/2000/67
29 December 2000

ON THE APPROVAL OF THE KOSOVO CONSOLIDATED BUDGET AND AUTHORIZING EXPENDITURES FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2001

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo and UNMIK Regulation No. 1999/16 of 6 November 1999, as amended, on the Establishment of the Central Fiscal Authority of Kosovo and Other Related Matters,

For the purpose of approving the Kosovo Consolidated Budget for the period 1 January to 31 December 2001 and other related matters,

Hereby promulgates the following:

Section 1

DEFINITIONS

For the purposes of the present regulation:

(a) "Budget Line" shall mean the total of the expenditure categories for a particular Administrative Department, Departmental Unit or Municipality;

(b) "Expenditure Categories" shall mean Salaries and Wages, Other Goods and Services, Subsidies and Transfers, Capital Outlays and Reserve;

(c) "Central Fiscal Authority Accounting Record" shall mean the accounting record established by the Central Fiscal Authority;

(d) "Kosovo Consolidated Budget" shall mean the overall budget of Kosovo which comprises the budget transactions of the general administrative, municipal and public enterprise sectors of government activity, consolidated in accordance with internationally accepted government finance standards;

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(e) "Kosovo Consolidated Fund" shall mean the fund established pursuant to UNMIK Regulation No. 1999/16, as amended;

(f) "Kosovo General Budget Section" shall mean that section of the Kosovo Consolidated Budget that encompasses the budge transactions of the Administrative Departments and associated agencies;

(g) "Kosovo Municipal Budgets Section" shall mean that section of the Kosovo Consolidated Budget that encompasses the budge transactions of the established Kosovo municipal administrations; and

(h) "Kosovo Public Enterprises Statements of Expenditure and Revenue" shall mean that section of the Kosovo Consolidated Budget that encompasses the expenditures and revenues of the specified Kosovo public enterprises or enterprise groups.

Section 2

GENERAL EXPENDITURES AUTHORIZED

Expenditures are authorized for the period 1 January to 31 December 2001 from the Kosovo General Budget Section for the General Government purposes indicated and the amounts shown in Schedule 1 attached to the present regulation.

Section 3

MUNICIPAL EXPENDITURES AUTHORIZED

Expenditures are authorized for the period 1 January to 31 December 2001 from the Kosovo Municipal Budgets Section for the purposes indicated and the amounts shown in Schedule 2 attached to the present regulation.

Section 4

PUBLIC ENTERPRISES EXPENDITURES AND REVENUES

Estimated expenditures and revenues for the period 1 January to 31 December 2001 from the Kosovo Public Enterprises Statements of Expenditure and Revenue for the purposes indicated are shown in Schedule 3 attached to the present regulation. The estimated expenditures in Schedule 3 are authorized only to the extent of revenues realized by each enterprise, including revenues in the form of a subsidy contained in Schedule 1.

Section 5

RE-APPROPRIATION OF UNEXPENDED COMMITMENTS AND BALANCES

5.1 Following the closure of the Financial Year 2000, the Co-Head of the Central Fiscal Authority shall submit a schedule of unexpended commitments incurred in 2000 and properly recorded in the Central Fiscal Authority Accounting Record to the Special Representative of the Secretary-General and recommend approval of the categories and amounts of such unexpended commitments. Upon approval of the Special Representative of the Secretary-General, expenditures for such commitments shall be deemed authorized for the period 1 January to 31 December 2001 from the Kosovo Consolidated Fund for General Government purposes.

5.2 Expenditures from unexpended balances of designated donor grants, which grants were actually received in 1999 and 2000, are authorized for the period 1 January to 31 December 2001. If the specified purpose is not already contained in the Schedules to the present regulation, an amount equivalent to the unexpended balance of the designated donor grant shall be deemed to be appropriated and a budge line created to permit expenditure to take place.

Section 6

LIMITS ON EXPENDITURES

6.1 Pursuant to section 4.4 of UNMIK Regulation No. 1999/16, no expenditures from, or commitments against, the Kosovo Consolidated Fund may be made except as authorized in the present regulation. Notwithstanding this restriction, unanticipated donor grants deposited in the Kosovo Consolidated Fund for specified purposes may be allocated and spent for those purposes. If the specified purpose is not already contained in the Schedules to the present regulation, an amount equivalent to the deposited donor grant shall be deemed to be appropriated and a budget line created to permit expenditure to take place.

6.2 Revenue from co-payments and fees collected by the Administrative Department of Health and Social Welfare in 2001, up to the amount of DM 12,000,000, shall be appropriated as the revenue is received. For such revenue collected in excess of DM 12,000,000, the Co-Head of the Central Fiscal Authority and the Co-Heads of the Administrative Department of Health and Social Welfare shall recommend to the Special Representative of the Secretary-General how such revenue shall be appropriated.

6.3 Administrative Departments and municipalities shall ensure that expenditures on Salaries and Wages do not exceed the amounts shown in Schedules 1 and 2 and that the number of staff at the end of 2001 does not exceed the numbers specified in Schedules 1 and 2. Any subsequent proposal to increase expenditures on Salaries and Wages or the number of staff may only be approved by the Special Representative of the Secretary-General, taking into account the views of the Co-Head of the Central Fiscal Authority and the Co-Heads of the Administrative Departments of Public Services, and where municipalities are concerned, Local Administration.

Section 7

CONTINGENT EXPENDITURES

7.1 The amounts authorized for contingent expenditures may be used only for urgent and unforeseen requirements. The Co-Head of the Central Fiscal Authority may authorize, on receipt of proper justification, the expenditure of up to DM 100,000 for each urgent and

unforeseen requirement. Proposals for amounts to be spent in excess of DM 100,000 shall be forwarded, together with the recommendation of the Co-Head of the Central Fiscal Authority, to the Special Representative of the Secretary-General for authorization.

7.2 Municipalities shall submit their proposals for contingent expenditures to the Co-Heads of the Administrative Department of Local Administration for review. The Co-Heads of the Administrative Department of Local Administration shall recommend to the Co-Head of the Central Fiscal Authority whether to accept the proposal or to consider other options including transfers authorized under sections 8.1 and 9 below.

Section 8

ADJUSTMENT TO AMOUNTS AUTHORIZED

8.1 The Co-Head of the Central Fiscal Authority may transfer authorized amounts between appropriations for Expenditure Categories for any individual budget line in Schedule 1 and 2, provided that the reallocation does not exceed, in total, twenty five percent (25%) of the category being reduced. Transfers in excess of this limit, including transfers between budget lines in Schedule 1, may be made upon written approval of the Special Representative of the Secretary-General, taking into account the views of the Co-Head of the Central Fiscal Authority. Appropriations for Reserves may be transferred in part or in whole to any other category within the same function with the approval of the Co-Head of the Central Fiscal Authority.

8.2 The Co-Head of the Central Fiscal Authority may transfer the amounts authorized pursuant to section 7.1 above between budget lines in Schedules 1 and 2.

Section 9

ADJUSTMENT TO MUNICIPAL BUDGET AMOUNTS

Upon request of the Deputy Special Representative of the Secretary-General for Civil Administration, the Co-Head of the Central Fiscal Authority shall transfer amounts allocated to one municipality to another, provided that the total appropriation for the Kosovo Municipal Budgets does not change. To the extent that the actual collections of any municipalities own source revenues exceeds the amount shown in Schedule 2, fifty percent (50%) of that amount shall be deemed appropriated and, upon request of a municipality, whose request has been approved by the Co-Heads of the Administrative Department of Local Administration, the Co-Head of the Central Fiscal Authority shall allocate such amount for expenditure. The remaining fifty percent (50%) shall be deposited into the Kosovo Consolidated Fund and may be appropriated for purposes other than municipal services, upon approval of the Special Representative of the Secretary-General.

Section 10

EXPENDITURES LIMITED TO REVENUES

The Co-Head of the Central Fiscal Authority, in allocating funds for expenditure, shall only allocate funds to the extent revenue or other financing sources are available in the Kosovo Consolidated Fund to make the expenditure.

Section 11

ENTRY INTO FORCE

The present regulation shall enter into force on 29 December 2000.

Bernard Kouchner
Special Representative of the Secretary-General

SCHEDULE 1

KOSOVO CONSOLIDATED BUDGET SECTION
1 JANUARY – 31 DECEMBER 2001
(DEUTSCHE MARKS)

Org. Code	Func. / Sub Func. Code	Department	F2	Sub-function	Employees		Expenditures on Goods and Services		Subsidies and Transfers	Capital Outlays	Reserve	Total
					End of Year 2001	Average 2001	Wages & Salaries	Goods & Services				
10100	**0101**	**IAC - KTC Secretariat**	**01**	Executive, Legislative, Fiscal and External Affairs	**10**	**10**	**46,800**	**265,100**				**311,900**
10200	**0101**	**Joint Advisory Council on Legislative Matters**	**01**	Executive, Legislative, Fiscal and External Affairs	**17**	**17**	**142,560**	**25,000**				**167,560**
20100	**0101**	**Central Fiscal Authority**	**01**	Executive, Legislative, Fiscal and External Affairs	**576**	**558**	**3,061,493**	**3,645,907**		**792,600**		**7,500,000**
20101	**0101**			Central Administration	126	108	400,019	1,957,607		485,000		2,842,626
20104	**0101**			Tax Administration	240	240	905,320	1,519,600		257,600		2,682,520
20105	**0101**			Customs	210	210	1,756,154	168,700		50,000		1,974,854
20201	**1302**	**Department for Reconstruction**	**02**	Multipurpose Development Project Affairs and Services	**30**	**30**	**119,880**	**93,060**				**212,940**
20300	**1301**	**Department of Trade and Industry**	**01**	Private Sector Development Affairs	**44**	**33**	**101,376**	**234,600**		**40,000**		**375,976**
20400	**0400**	**Department of Education and Science**			**27,087**	**27,087**	**90,565,000**	**22,445,000**		**4,990,000**		**118,000,000**
20401	0401		01	Pre-Primary Affairs	678	678	1,928,232	1,075,000		166,667		3,169,899
20402	0402		02	Primary Affairs	18,515	18,515	60,432,960	10,270,000		3,000,000		73,702,960
20403	0403		03	Secondary Affairs	5,249	5,249	18,518,472	4,828,000		630,000		23,976,472
20404	0404		04	Boarding Facilities & Dormitory Affairs	95	95	247,380	230,000		20,000		497,380
20405	0405		05	Special Needs Education Affairs	142	142	444,744	197,000		275,000		916,744
20406	0406		06	University Affairs	2,006	2,006	7,703,040	4,805,000				12,508,040
20407	0407		07	National University Library Services	79	79	277,764	110,000		85,000		472,764
20408	0408		08	Educational Administration Affairs	187	187	619,680	482,000		330,000		1,431,680
20409	0409		09	Pre- School Affairs	136	136	392,728	448,000		483,333		1,324,061
20500	**0800**	**Department of Culture**			**564**	**564**	**1,865,115**	**216,400**	**300,000**	**9,500**		**2,391,015**
20501	0801		02	Central Administration	9	9	32,400	117,400		9,500		159,300
20502	0802		03	Municipal Culture Activities	339	339	1,119,436		300,000			1,419,436
20503	0803		04	Kosovo Cultural Institutions	216	216	713,279	99,000				812,279
20600	**0805**	**Department of Sports**	01		**45**	**45**	**152,881**	**104,700**	**1,541,480**			**1,799,061**

2070		**Department of Public Services**		**1,200**	**1,200**	**4,200,156**	**13,500,000**		**1,500,000**		**19,200,156**
20701	0109		04 Central Administration	23	23	84,576	101,328				185,904
20702	1201		05 Vehicle Registration and Driver License	245	245	993,780	2,719,421				3,713,201
20703	0705		Housing and Property	191	191	525,600	500,000				1,025,600
20704	0104		07 General Services	575	575	2,014,800	4,254,662		1,500,000		7,769,462
20705	0104		Policy and Legal Support	52	52	191,520	620,250				811,770
20706	0105		08 Victim Recovery Identification				215,000				215,000
20709	0109		Travel Documents	114	114	389,880	5,089,339				
20800		**Department of Justice**		**7,082**	**7,044**	**25,779,219**	**16,752,064**		**1,673,851**	**2,899,000**	**47,104,134**
20801	0302		02 Police Affairs	4,475	4,475	15,745,860	7,923,524		1,325,000	2,899,000[1]	27,893,384
20802	0303		03 Prison Service Affairs	878	840	2,925,248	3,226,400				6,151,648
20803	0305		05 Court Affairs	1,726	1,726	7,095,151	5,521,740		337,500		12,954,391
20805	0307		07 Judicial Advisory Commission Affairs	3	3	12,960	80,400		11,351		104,711
20900	**1200**	**Department of Transport and Infrastructure**	01	**88**	**88**	**351,648**	**7,936,475**	**13,180,000**			**21,468,123**
20901	1201		Transport and Roads & Bridges Affairs and Services	66	66	272,448	7,774,675	11,930,000			19,977,123
20903	1203		Railways					1,250,000			1,250,000
20906	1208		Central Administration	22	22	79,200	161,800				241,000
2100	**1207**	**Department of Post and Telecommunication**	Post and Telecommunication Affairs	**21**	**21**	**87,660**	**156,700**		**38,500**		**282,860**
21100		**Department of Utilities**		**30**	**17**	**73,440**	**88,218**	**24,795,363**	**69,180**		**25,026,201**
21101	0901		01 Electricity and Other Energy Affairs					12,613,600			**12,613,600**
21102	0703		Waste and Water					5,744,747			**5,744,747**
21104	0702		02 District Heating					6,437,016			**6,437,016**
21105	0902		03 Central Administration	30	17	73,440	88,218		69,180		**230,838**
21200		**Department of Health and Social Security**		**11,332**	**11,302**	**34,428,626**	**50,652,110**	**81,000,000**	**5,134,385**	**5,770,419**	**176,985,540**
21201	0501		01 Hospital Affairs and Services	4,945	4,945	14,284,080	23,980,111		2,057,500	2,856,816[2]	43,178,507
21202	0601		Social Security Administration Affairs	750	720	2,431,010	1,291,640	81,000,000	262,890		84,985,540
21203	0502		02 Primary Health Care Affairs and Services	5,300	5,300	16,726,800	21,635,839	-	2,319,995	2,913,603[2]	43,596,237
21204	0503		03 Other Health Care Affairs and Services	337	337	986,736	3,744,520		494,000		5,225,256

21300	**0602**	**Department of Labor and Employment**	02 Labor Affairs	**185**	**185**	**626,892**	**405,167**		**386,180**	**500,000**[3]	**1,918,239**
21400	**1001**	**Department of Agriculture**	01 Agriculture Affairs and Services	**422**	**422**	**1,433,853**	**553,199**		**422,975**	**136,333**[4]	**2,546,360**
21500	**1002**	**Department of Environment**	02 Environmental Affairs	**34**	**34**	**133,500**	**208,500**		**54,000**		**396,000**
21600		**Department of Civil Security and Emergency Preparation**		**3,790**	**5,040**	**17,757,725**	**9,196,354**		**2,489,984**		**29,444,063**
21601	0201		01 Kosovo Protection Corps	3,152	4,402	15,481,133	7,045,854		1,031,984		23,558,971
21602	0301		Fire and Rescue Services	570	570	2,038,320	1,394,600		750,000		4,182,920
21603	0201		Executive Core	68	68	238,272	485,900		658,000		1,382,172
21604	0201		Mine Clearance				270,000		50,000		320,000
21700	**0706**	**Department of Democratic and Civil Society**	06 Civil Society Affairs	**17**	**16**	**71,640**	**106,000**		**42,000**		**219,640**
21800	**0101**	**Department of Local Administration**	01 Executive, Legislative, Fiscal and External Affairs	**18**	**18**	**82,080**	**19,500**		**8,000**		**109,580**
21900	**0101**	**Department of Non-resident Affairs**	01 Executive, Legislative, Fiscal and External Affairs	**15**	**15**	**73,800**	**239,600**		**51,825**		**365,225**
22000	**0805**	**Department of Youth**	01 Sports and Youth Services	**47**	**47**	**158,725**	**87,365**	**220,000**	**3,200**		**469,290**
30101	**0102**	**Banking and Payment Authority**	02 Banking Affairs					**2,920,000**			**2,920,000**
30300		**Statistical Services**		**121**	**121**	**425,541**	**789,359**		**479,950**		**1,694,850**
30301	**0104**		Statistic Office	103	103	345,981	495,334		339,950		1,181,265
30302	**0109**		Business Registration	18	18	79,560	294,025		140,000		513,585
	1401		01 Municipalities					**27,595,000**			**27,595,000**
20199	**1402**		02 Contingent Expenditures							**11,500,000**	**11,500,000**
		Total General Budget		**52,775**	**53,914**	**181,739,610**	**127,720,378**	**151,551,843**	**18,186,130**	**20,805,752**	**500,003,713**

[1] Reserves only for payment of shift allowances on Hospitals and Primary Health

[2] Compensation package to be developed to reflect the nature of the police job and creation of a forensic institute within the police

[3] Reserve to provide special labor market activities and policy development

[4] Reserve money only for additional recruitment of minority staff

SCHEDULE 2
KOSOVO MUNICIPAL BUDGETS SECTION
1 JANUARY TO 31 DECEMBER 2001

		Expenditures (Deutsche Marks)				Source of Financing (DM)	
	Maximum Number of Employees at end of 2001 (1)	Salaries and Wages (1)	Other Goods and Services	LCOs (1)	Total	Government Grant	Own Source Revenues
Pristina Region	**1449**	**5,042,520**	**3,745,48**	**315,000**	**9,103,000**	**7,304,000**	**1,798,000**
Gllogoc/Glogovac	150	522,000	369,000		891,000	718,000	173,000
Fushe Kosove/Kosovo Polje	92	320,160	223,840	30,000	574,000	473,000	101,000	
Lipjan/Lipljan	179	622,920	452,080	115,000	1,190,000	975,000	215,000
Obiliq/Obilic	82	285,360	174,640	30,000	490,000	415,000	75,000
Podujev/Podujevo	246	856,080	601,920		1,458,000	1,170,000	288,000
Prishtine/Pristina	622	2,164,560	1,739,440	140,000	4,044,000	3,179,000	865,000
Shtime/Stimlje	78	271,440	183,560		455,000	374,000	81,000
Prizren Rregion	**963**	**3,351,240**	**2,507,76**	**140,000**	**5,999,000**	**4,798,000**	**1,202,000**
Dragash/Dora	103	358,440	243,560	25,000	627,000	517,000	110,000
Prizren/Prizren	362	1,259,760	1,102,240	85,000	2,447,000	1,899,000	548,000
Rahovec/Orahovac	157	546,360	378,640	30,000	955,000	777,000	178,000
Suhareke/Suva Reka	199	692,520	458,480		1,151,000	935,000	216,000
Malisheve/Malisevo	142	494,160	325,840		820,000	670,000	150,000
Peja Region	**883**	**3,072,840**	**2,183,16**	**132,000**	**5,388,000**	**4,334,000**	**1,054,000**
Decan/Decani	112	389,760	281,240	12,000	683,000	553,000	130,000
Gjakove/Dakovica	252	876,960	681,040	35,000	1,593,000	1,262,000	331,000
Istog/Istok	127	441,960	294,040	25,000	761,000	626,000	135,000
Kline/Klina	131	455,880	277,120	25,000	758,000	631,000	127,000
Peje/Pec	261	908,280	649,720	35,000	1,593,000	1,262,000	331,000
Mitrovica Region	**712**	**2,477,760**	**1,799,24**	**518,000**	**4,795,000**	**3,960,000**	**836,000**
Leposaviq/Leposavic	60	208,800	132,200	21,000	362,000	307,000	55,000
Mitrovice/Kosovska Mitrovica	232	807,360	624,640	390,000	1,822,000	1,519,000	303,000
Skenderaj/Srbica	134	466,320	343,680	21,000	831,000	670,000	161,000
Vushtrri/Vucitrn	180	626,400	475,600	55,000	1,157,000	929,000	228,000
Zubin Potok/Zubin Potok	52	180,960	109,040	12,000	302,000	259,000	43,000
Zvecan/Zvecan	54	187,920	115,080	19,000	322,000	276,000	46,000
Gnjilane Region	**929**	**3,232,920**	**2,368,08**	**445,000**	**6,046,000**	**4,938,000**	**1,110,000**
Gjilan/Gnjilane	242	842,160	652,840	75,000	1,570,000	1,253,000	317,000
Kacanik/Kacanik	102	354,960	252,040		607,000	492,000	115,000
Kamenice/Kosovska Kamenica	122	424,560	309,440	185,000	919,000	775,000	144,000
Novo Berde/Novo Brdo	37	128,760	54,240	45,000	228,000	214,000	14,000
Shtrpce/Strpce	46	160,080	92,920	60,000	313,000	278,000	35,000
Ferizaj/Urosevac	248	863,040	669,960	20,000	1,553,000	1,227,000	326,000
Viti/Vitina	132	459,360	338,640	60,000	858,000	699,000	159,000
Unallocated		**1,342,666**	**671,334**	**250,000**	**2,264,000**	**2,261,000**	
Total Municipalities	**4,936**	**18,519,946**	**13,275,054**	**1,800,000**	**33,595,000**	**27,595,000**	**6,000,000**

Note (1) Total number of employees and provision for Salaries and Wages do not include the employees of the new Municipal Assemblies or of the Local Community Organisation specifically provided for in the Schedule

SCHEDULE 3

KOSOVO PUBLIC ENTERPRISES STATEMENTS OF EXPENDITURE AND REVENUE
1 JANUARY TO 31 DECEMBER 2001
(ESTIMATES - DEUTSCHE MARKS)

		Expenses			Revenue				
	Staff: Av. for year	Wages & Salaries	Goods & Services	Total	User Charges & other income	Budget Subsidies	Total	Revenue minus Expenses	Capital Investments
Post and Telecommunications									
Post and Telecommunications Kosovo (PTK)									
Fixed Network (a)	600	3,600,000	18,800,000	22,400,000	54,307,000		54,307,000	31,907,000	29,400,000
Mobile Network	50	600,000	600,000	1,200,000	44,036,000		44,036,000	42,836,000	38,200,000
Postal services	900	3,240,000	2,100,000	5,340,000	3,700,000		3,700,000	-1,640,000	2,200,000
Total PTK	1,550	7,440,000	21,500,000	28,940,000	102,043,000		102,043,000	73,103,000	69,800,000
Public Utilities									
Power Company of Kosovo (KEK)	8,500	34,170,000	32,807,236	66,977,236	54,363,636	12,613,600	66,977,236	0	0
District Heating Enterprises	173	519,000	10,209,360	10,728,360	4,291,344	6,437,016	10,728,360	0	0
Water and Waste Enterprises	3,100	9,300,000	15,452,746	24,752,746	19,008,000	5,744,746	24,752,746	0	0
Transport and Infrastructure									
Pristina Airport	134	1,342,000	3,925,600	5,267,600	9,150,000		9,150,000	3,882,400	3,607,000
Kosovo Railway	475	1,656,000	2,915,000	4,571,000	3,500,000	1,250,000	4,750,000	179,000	0
Bank and Payments Authority (BPK)	365	1,811,304	5,508,696	7,320,000	4,400,000	2,920,000	7,320,000	0	0
TOTAL 2001	14,297	56,238,304	92,318,638	148,556,942	196,755,980	28,965,362	225,721,342	77,164,400	73,407,000

Notes
(a) PTK Corporate and other costs included in fixed network data (Corporate costs 2000: DM 300,000, 2001: DM 500,000)
(b) Railways revenue includes purchase by UNMIK of passenger services for minorities (Dm 520,000 in 2000, DM 624,000 in 20001). Budget subsidy is a repayable loan from the Kosovo Budget (DM 1.24 in 2000, DM 0.626m in 2001)
(c) BPK expenses do not include DM 5 m. capital reserve
Revenues. Includes all operating and non-operating revenues, less own account fixed capital formation, change in inventories, change in accounts receivable
Expenses. Operating and non-operating expenses, including direct taxes paid, less consumption of fixed capital, consumption of intangible assets, change in inventories, change in prepaid expenses
Net acquisition of capital assets. acquisition less sales of capital assets. Capital Investments funded from retained revenue or committed donor funds. Capital projects for which no donor has been identified are shown in the PRIP

REGULATION NO. 2000/68

ON CONTRACTS FOR THE SALE OF GOODS

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

For the purpose of reconstructing and enhancing the economy of Kosovo and creating a viable market-based economy by providing for the regulation of contracts for the sale of goods,

Hereby promulgates the following:

Part I. Sphere of Application and General Provisions

Chapter 1
Sphere of Application

Section 1

1.1 The present regulation is based on the United Nations Convention on the International Sale of Goods, and accordingly shall be interpreted consistently with reported decisions on that Convention. For ease of reference, the organization and numbering system of the present regulation follows that of the Convention, with the exception that "sections" in the Convention are "subchapters" in the present regulation, and "articles" in the Convention are "sections" in the present regulation. Where the corresponding provisions in the Convention are not applicable and have been deleted, this is indicated by an asterisk under the relevant sections.

1.2 Laws inconsistent with the provisions of the present regulation are repealed.

Section _

2.1 The present regulation applies to contracts for the sale of goods. "Goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities and things in action. "Goods" also includes the unborn young of animals and growing crops and other identified things attached to but severable from realty.

2.2 The present regulation does not apply to sales

(a) (deleted)*,

(b) by auction;

(c) on execution or otherwise by authority of law;

(d) of stocks, shares, investment securities, negotiable instruments or money;

(e) of ships, vessels, hovercraft or aircraft;

(f) of electricity

Section 3

3.1 Contracts for the supply of goods to be manufactured or produced are to be considered sales unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

3.2 The present regulation does not apply to contracts in which the preponderant part of the obligations of the party who furnishes the goods consists in the supply of labour or other services.

Section 4

The present regulation governs only the formation of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract. In particular, except as otherwise expressly provided in the present regulation it is not concerned with:

(a) the validity of the contract or of any of its provisions or of any usage;

(b) the effect which the contract may have on the property in the goods sold.

Section 5

The present regulation does not apply to the liability of the seller for death or personal injury caused by the goods to any person

Section 6

The parties may exclude the application of the present regulation or derogate from or vary the effect of any of its provisions

Chapter 2
General Provisions

Section 7

(Deleted)"

Section 8

8.1 For the purposes of the present regulation statements made by and other conduct of a party are to be interpreted according to his intent where the other party knew or could not have been unaware what that intent was

8.2 If section 8.1 is not applicable, statements made by and other conduct of a party are to be interpreted according to the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances.

8.3 In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations, any practices which the parties have established between themselves, usages and any subsequent conduct of the parties.

Section 9

9.1 The parties are bound by any usage to which they have agreed and by any practices, which they have established between themselves.

9.2 In the case of contracts of an international character, the parties are considered, unless otherwise agreed, to have impliedly made applicable to their contract or its formation a usage of which the parties knew or ought to have known and which in international trade is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade concerned.

Section 10

For the purposes of the present regulation:

(a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract;

(b) if a party does not have a place of business, reference is to be made to his habitual residence.

Section 11

A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses.

Section 12

(deleted)*

Section 13

For the purposes of the present regulation "writing" includes telegram, telex, facsimile, e-mail, and any similar form of electronic communication.

Part II. Formation of the Contract

Section 14

14.1 A proposal for concluding a contract addressed to one or more specific persons constitutes an offer if it is sufficiently definite and indicates the intention of the offeror to be bound in case of acceptance. A proposal is sufficiently definite if it indicates the goods and expressly or implicitly fixes or makes provision for determining the quantity and the price.

14.2 A proposal other than one addressed to one or more specific persons is to be considered merely as an invitation to make offers, unless the contrary is clearly indicated by the person making the proposal.

Section 15

15.1 An offer becomes effective when it reaches the offeree

15.2 An offer, even if it is irrevocable, may be withdrawn if the withdrawal reaches the offeree before or at the same time as the offer.

Section 16

16.1 Until a contract is concluded an offer may be revoked if the revocation reaches the offeree before he has dispatched an acceptance.

16.2 However, an offer cannot be revoked:

(a) if it indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable; or

(b) if it was reasonable for the offeree to rely on the offer as being irrevocable and the offeree has acted in reliance on the offer.

Section 17

An offer, even if it is irrevocable, is terminated when a rejection reaches the offeror.

Section 18

18.1 A statement made by or other conduct of the offeree indicating assent to an offer is an acceptance. Silence or inactivity does not in itself amount to acceptance.

18.2 An acceptance of an offer becomes effective at the moment the indication of assent reaches the offeror. An acceptance is not effective if the indication of assent does not reach the offeror within the time he has fixed or, if no time is fixed, within a reasonable time, due account being taken of the circumstances of the transaction, including the rapidity of the means of communication employed by the offeror. An oral offer must be accepted immediately unless the circumstances indicate otherwise.

18.3 However, if, by virtue of the offer or as a result of practices which the parties have established between themselves or of usage, the offeree may indicate assent by performing an act, such as one relating to the dispatch of the goods or payment of the price, without notice to the offeror, the acceptance is effective at the moment the act is performed, provided that the act is performed within the period of time laid down in the preceding paragraph.

Section 19

19.1 A reply to an offer, which purports to be an acceptance but contains additions, limitations or other modifications is a rejection of the offer and constitutes a counteroffer.

19.2 However, a reply to an offer which purports to be an acceptance but contains additional or different terms which do not materially alter the terms of the offer constitutes an acceptance, unless the offeror, without undue delay, objects orally to the discrepancy or dispatches a notice to that effect. If he does not so object, the terms of the contract are the terms of the offer with the modifications contained in the acceptance.

19.3 Additional or different terms relating, among other things, to the price, payment, quality and quantity of the goods, place and time of delivery, extent of one party's liability to the other or the settlement of disputes are considered to alter the terms of the offer materially

Section 20

20.1 A period of time of acceptance fixed by the offeror in a telegram or a letter begins to run from the moment the telegram is handed in for dispatch or from the date shown on the letter or, if no such date is shown, from the date shown on the envelope. A period of time for acceptance fixed by the offeror by telephone, telex or other means of instantaneous communication, begins to run from the moment that the offer reaches the offeree.

20.2 Official holidays or non-business days occurring during the period for acceptance are included in calculating the period. However, if a notice of acceptance cannot be delivered at the address of the offeror on the last day of the period because that day falls on an official holiday or a non-business day at the place of business of the offeror, the period is extended until the first business day which follows.

Section 21

21.1 A late acceptance is nevertheless effective as an acceptance if without delay the offeror orally so informs the offeree or dispatches a notice to that effect.

21.2 If a letter or other writing containing a late acceptance shows that it has been sent in such circumstances that if its transmission had been normal it would have reached the offeror in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror orally informs the offeree that he considers his offer as having lapsed or dispatches a notice to that effect.

Section 22

An acceptance may be withdrawn if the withdrawal reaches the offeror before or at the same time, as the acceptance would have become effective.

Section 23

A contract is concluded at the moment when an acceptance of an offer becomes effective in accordance with the provisions of the present regulation

Section 24

For the purposes of this Part of the present regulation, an offer, declaration of acceptance or any other indication of intention "reaches" the addressee when it is made orally to him or delivered by any other means to him personally, to his place of business or mailing address or, if he does not have a place of business or mailing address, to his habitual residence.

Part III. Sale of Goods

Chapter I
General Provisions

Section 25

A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.

Section 26

A declaration of avoidance of the contract is effective only if made by notice to the other party.

Section 27

Unless otherwise expressly provided in this Part of the present regulation, if any notice, request or other communication is given or made by a party in accordance with this Part and by means appropriate in the circumstances, a delay or error in the transmission of the communication or its failure to arrive does not deprive that party of the right to rely on the communication.

Section 28

(deleted)[1]

Section 29

29.1 A contract may be modified or terminated by the mere agreement of the parties.

29.2 A contract in writing which contains a provision requiring any modification or termination by agreement to be in writing may not be otherwise modified or terminated by agreement. However, a party may be precluded by his conduct from asserting such a provision to the extent that the other party has relied on that conduct.

Chapter 2
Obligations of the seller

Section 30

The seller must deliver the goods, hand over any documents relating to them and transfer the property in the goods, as required by the contract and the present regulation.

Subchapter I
Delivery of the goods and handing over of documents

Section 31

If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists:

(a) if the contract of sale involves carriage of the goods - in handing the goods over to the first carrier for transmission to the buyer;

(b) if, in cases not within the preceding subsection, the contract relates to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place - in placing the goods at the buyer's disposal at that place;

(c) in other cases - in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract.

Section 32

32.1 If the seller, in accordance with the contract or the present regulation, hands the goods over to a carrier and if the goods are not clearly identified to the contract by markings on the goods, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the goods.

32.2 If the seller is bound to arrange for carriage of the goods, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation.

32.3 If the seller is not bound to effect insurance in respect of the carriage of the goods, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

Section 33

The seller must deliver the goods:

(a) if a date is fixed by or determinable from the contract, on that date;

(b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date; or

(c) in any other case, within a reasonable time after the conclusion of the contract

Section 34

If the seller is bound to hand over documents relating to the goods, he must hand them over at the time and place and in the form required by the contract. If the seller has handed over documents before that time, he may, up to that time, cure any lack of conformity in the documents, if the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in the present regulation.

Subchapter II
Conformity of the goods and third party claims

Section 35

35.1 The seller must deliver goods which are of the quantity, quality and description required by the contract and which are contained or packaged in the manner required by the contract.

35.2 Except where the parties have agreed otherwise, the goods do not conform with the contract unless they:

(a) are fit for the purposes for which goods of the same description would ordinarily be used;

(b) are fit for any particular purpose expressly or impliedly made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller's skill and judgement;

(c) possess the qualities of goods which the seller has held out to the buyer as a sample or model;

(d) are contained or packaged in the manner usual for such goods or, where there is no such manner, in a manner adequate to preserve and protect the goods.

35.3 The seller is not liable under subsections (a) to (d) of section 35.2 for any lack of conformity of the goods if at the time of the conclusion of the contract the buyer knew or could not have been unaware of such lack of conformity.

Section 36

36.1 The seller is liable in accordance with the contract and the present regulation for any lack of conformity, which exists at the time when the risk passes to the buyer, even though the lack of conformity becomes apparent only after that time.

36.2 The seller is also liable for any lack of conformity which occurs after the time indicated in section 36.1 and which is due to a breach of any of his obligations, including a breach of any guarantee that for a period of time the goods will remain fit for their ordinary purpose or for some particular purpose or will retain specified qualities or characteristics.

Section 37

If the seller has delivered goods before the date for delivery, he may, up to that date, deliver any missing part or make up any deficiency in the quantity of the goods delivered, or deliver goods in replacement of any non-conforming goods delivered or remedy any lack of conformity in the goods delivered, provided that the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in the present regulation.

Section 38

38.1 The buyer must examine the goods, or cause them to be examined, within as short a period as is practicable in the circumstances.

38.2 If the contract involves carriage of the goods, examination may be deferred until after the goods have arrived at their destination.

38.3 If the goods are redirected in transit or redispatched by the buyer without a reasonable opportunity for examination by him and at the time of the conclusion of the contract the seller knew or ought to have known of the possibility of such redirection or redispatch, examination may be deferred until after the goods have arrived at the new destination.

Section 39

39.1 The buyer loses the right to rely on a lack of conformity of the goods if he does not give notice to the seller specifying the nature of the lack of conformity within a reasonable time after he has discovered it or ought to have discovered it.

39.2 In any event, the buyer loses the right to rely on a lack of conformity of the goods if he does not give the seller notice thereof at the latest within a period of two years from the date on which the goods were actually handed over to the buyer, unless this time-limit is inconsistent with a contractual period of guarantee.

Section 40

The seller is not entitled to rely on the provisions of sections 38 and 39 if the lack of conformity relates to facts of which he knew or could not have been unaware and which he did not disclose to the buyer.

Section 41

The seller must deliver goods, which are free from any right or claim of a third party, unless the buyer agreed to take the goods subject to that right or claim. However, if such right or claim is based on industrial property or other intellectual property, the seller's obligation is governed by section 42.

Section 42

42.1 The seller must deliver goods which are free from any right or claim of a third party based on industrial property or other intellectual property, of which at the time of the conclusion of the contract the seller knew or could not have been unaware, provided that the right or claim is based on industrial property or other intellectual property:

(a) under the law of the place where the goods will be resold or otherwise used, if it was contemplated by the parties at the time of the conclusion of the contract that the goods would be resold or otherwise used in that place; or

(b) in any other case, under the law of the place where the buyer has his place of business.

42.2 The obligation of the seller under section 42.1 does not extend to cases where:

(a) at the time of the conclusion of the contract the buyer knew or could not have been unaware of the right or claim; or

(b) the right or claim results from the seller's compliance with technical drawings, designs, formulae or other such specifications furnished by the buyer.

Section 43

43.1 The buyer loses the right to rely on the provisions of section 41 or section 42 if he does not give notice to the seller specifying the nature of the right or claim of the third party within a reasonable time after he has become aware or ought to have become aware of the right or claim.

43.2 The seller is not entitled to rely on the provisions of section 43.1 if he knew of the right or claim of the third party and the nature of it.

Section 44

Notwithstanding the provisions of sections 39.1 and 43.1, the buyer may reduce the price in accordance with section 50 or claim damages, except for loss of profit, if he has a reasonable excuse for his failure to give the required notice.

Subchapter III
Remedies for breach of contract by the seller

Section 45

45.1 If the seller fails to perform any of his obligations under the contract or the present regulation, the buyer may:

(a) exercise the rights provided in sections 46 to 52;

(b) claim damages as provided in sections 74 to 77.

45.2 The buyer is not deprived of any right he may have to claim damages by exercising his right to other remedies.

45.3 No period of grace may be granted to the seller by a court or arbitral tribunal when the buyer resorts to a remedy for breach of contract.

Section 46

46.1 The buyer may require performance by the seller of his obligations unless the buyer has resorted to a remedy, which is inconsistent with this requirement.

46.2 If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity constitutes a fundamental breach of contract and a request for substitute goods is made either in conjunction with notice given under section 39 or within a reasonable time thereafter.

46.3 If the goods do not conform with the contract, the buyer may require the seller to remedy the lack of conformity by repair, unless this is unreasonable having regard to all the circumstances. A request for repair must be made either in conjunction with notice given under section 39 or within a reasonable time thereafter.

Section 47

47.1 The buyer may fix an additional period of time of reasonable length for performance by the seller of his obligations.

47.2 Unless the buyer has received notice from the seller that he will not perform within the period so fixed, the buyer may not, during that period, resort to any remedy for breach of contract. However, the buyer is not deprived thereby of any right he may have to claim damages for delay in performance.

Section 48

48.1 Subject to section 49, the seller may, even after the date for delivery, remedy at his own expense any failure to perform his obligations, if he can do so without unreasonable delay and without causing the buyer unreasonable inconvenience or uncertainty of reimbursement by the seller of expenses advanced by the buyer. However, the buyer retains any right to claim damages as provided for in the present regulation.

48.2 If the seller requests the buyer to make known whether he will accept performance and the buyer does not comply with the request within a reasonable time, the seller may perform within the time indicated in his request. The buyer may not, during that period of time, resort to any remedy which is inconsistent with performance by the seller.

48.3 A notice by the seller that he will perform within a specified period of time is assumed to include a request, under the preceding paragraph, that the buyer make known his decision.

48.4 A request or notice by the seller under sections 48.2 and 48.3 is not effective unless received by the buyer.

Section 49

49.1 The buyer may declare the contract avoided:

(a) if the failure by the seller to perform any of his obligations under the contract or the present regulation amounts to a fundamental breach of contract, or

(b) in case of non-delivery, if the seller does not deliver the goods within the additional period of time fixed by the buyer in accordance with section 47.1 or declares that he will not deliver within the period so fixed.

49.2 However, in cases where the seller has delivered the goods, the buyer loses the right to declare the contract avoided unless he does so:

(a) in respect of late delivery, within a reasonable time after he has become aware that delivery has been made;

(b) in respect of any breach other than late delivery, within a reasonable time:

(i) after he knew or ought to have known of the breach,

(ii) after the expiration of any additional period of time fixed by the buyer in accordance with section 47.1, or after the seller has declared that he will not perform his obligations within such an additional period; or

(iii) after the expiration of any additional period of time indicated by the seller in accordance with section 48.2, or after the buyer has declared that he will not accept performances.

Section 50

If the goods do not conform with the contract and whether or not the price has already been paid, the buyer may reduce the price in the same proportion as the value that the goods actually delivered had at the time of the delivery bears to the value that conforming goods would have had at that time. However, if the seller remedies any failure to perform his obligations in accordance with section 37 or section 48 or if the buyer refuses to accept performance by the seller in accordance with those sections, the buyer may not reduce the price.

Section 51

51.1 If the seller delivers only a part of the goods or if only a part of the goods delivered is in conformity with the contract, sections 46 to 50 apply in respect of the part which is missing or which does not conform.

51.2 The buyer may declare the contract avoided in its entirety only if the failure to make delivery completely or in conformity with the contract amounts to a fundamental breach of the contract.

Section 52

52.1 If the seller delivers the goods before the date fixed, the buyer may take delivery or refuse to take delivery.

52.2 If the seller delivers a quantity of goods greater than that provided for in the contract, the buyer may take delivery or refuse to take delivery of the excess quantity. If the buyer takes delivery of all or part of the excess quantity, he must pay for it at the contract rate.

Chapter 3
Obligations of the buyer

Section 53

The buyer must pay the price for the goods and take delivery of them as required by the contract and the present regulation.

Subchapter I
Payment of the price

Section 54

The buyer's obligation to pay the price includes taking such steps and complying with such formalities as may be required under the contract or any laws and regulations to enable payment to be made.

Section 55

Where a contract has been validly concluded but does not expressly or implicitly fix or make provision for determining the price, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such goods sold under comparable circumstances in the trade concerned.

Section 56

If the price is fixed according to the weight of the goods, in case of doubt it is to be determined by the net weight.

Section 57

57.1 If the buyer is not bound to pay the price at any other particular place, he must pay it to the seller:

(a) at the seller's place of business; or

(b) if the payment is to be made against the handing over of the goods or of documents, at the place where the handing over takes place.

57.2 The seller must bear any increase in the expenses incidental to payment, which is caused by a change in his place of business subsequent to the conclusion of the contract.

Section 58

58.1 If the buyer is not bound to pay the price at any other specific time he must pay it when the seller places either the goods or documents controlling their disposition at the buyer's disposal in accordance with the contract and the present regulation. The seller may make such payment a condition for handing over the goods or documents.

58.2 If the contract involves carriage of the goods, the seller may dispatch the goods on terms whereby the goods, or documents controlling their disposition, will not be handed over to the buyer except against payment of the price.

58.3 The buyer is not bound to pay the price until he has had an opportunity to examine the goods, unless the procedures for delivery or payment agreed upon by the parties are inconsistent with his having such an opportunity.

Section 59

The buyer must pay the price on the date fixed by or determinable from the contract and the present regulation without the need for any request or compliance with any formality on the part of the seller.

Subchapter II
Taking delivery

Section 60

The buyer's obligation to take delivery consists:

(a) in doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and

(b) in taking over the goods.

Subchapter III
Remedies for breach of contract by the buyer

Section 61

61.1 If the buyer fails to perform any of his obligations under the contract or the present regulation, the seller may:

(a) exercise the rights provided in sections 62 to 65, and

(b) claim damages as provided in sections 74 to 77

61.2 The seller is not deprived of any right he may have to claim damages by exercising his right to other remedies.

61.3 No period of grace may be granted to the buyer by a court or arbitral tribunal when the seller resorts to a remedy for breach of contract.

Section 62

The seller may require the buyer to pay the price, take delivery or perform his other obligations, unless the seller has resorted to a remedy, which is inconsistent with this requirement.

Section 63

63.1 The seller may fix an additional period of time of reasonable length for performance by the buyer of his obligations.

63.2 Unless the seller has received notice from the buyer that he will not perform within the period so fixed, the seller may not, during that period, resort to any remedy for breach of contract. However, the seller is not deprived thereby of any right he may have to claim damages for delay in performance.

Section 64

64.1 The seller may declare the contract avoided:

(a) if the failure by the buyer to perform any of his obligations under the contract or the present regulation amounts to a fundamental breach of contract; or

(b) if the buyer does not, within the additional period of time fixed by the seller in accordance with section 63.1, perform his obligation to pay the price or take delivery of the goods, or if he declares that he will not do so within the period so fixed.

64.2 However, in cases where the buyer has paid the price, the seller loses the right to declare the contract avoided unless he does so:

(a) in respect of late performance by the buyer before the seller has become aware that performance has been rendered, or

(b) in respect of any breach other than late performance by the buyer, within a reasonable time:

(i) after the seller knew or ought to have known of the breach; or

(ii) after the expiration of any additional period of time fixed by the seller in accordance with section 63.1, or after the buyer has declared that he will not perform his obligations within such an additional period.

Section 65

65.1 If under the contract the buyer is to specify the form, measurement or other features of the goods and he fails to make such specification either on the date agreed upon or within a reasonable time after receipt of a request from the seller, the seller may, without prejudice to any other rights he may have, make the specification himself in accordance with the requirements of the buyer that may be known to him.

65.2 If the seller makes the specification himself, he must inform the buyer of the details thereof and must fix a reasonable time within which the buyer may make a different specification. If, after receipt of such a communication, the buyer fails to do so within the time so fixed, the specification made by the seller is binding.

Chapter 4
Passing of risk

Section 66

Loss of or damage to the goods after the risk has passed to the buyer does not discharge him from his obligation to pay the price, unless the loss or damage is due to an act or omission of the seller.

Section 67

67.1 If the contract of sale involves carriage of the goods and the seller is not bound to hand them over at a particular place, the risk passes to the buyer when the goods are handed over to the first carrier for transmission to the buyer in accordance with the contract of sale. If the seller is bound to hand the goods over to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place. The fact that the seller is authorized to retain documents controlling the disposition of the goods does not affect the passage of the risk.

67.2 Nevertheless, the risk does not pass to the buyer until the goods are clearly identified to the contract, whether by markings on the goods, by shipping documents, by notice given to the buyer or otherwise.

Section 68

The risk in respect of goods sold in transit passes to the buyer from the time of the conclusion of the contract. However, if the circumstances so indicate, the risk is assumed by the buyer from the time the goods were handed over to the carrier who issued the documents embodying the contract of carriage. Nevertheless, if at the time of the conclusion of the contract of sale the seller knew or ought to have known that the goods had been lost or damaged and did not disclose this to the buyer, the loss or damage is at the risk of the seller.

Section 69

69.1 In cases not within sections 67 and 68, the risk passes to the buyer when he takes over the goods or, if he does not do so in due time, from the time when the goods are placed at his disposal and he commits a breach of contract by failing to take delivery.

69.2 However, if the buyer is bound to take over the goods at a place other than a place of business of the seller, the risk passes when delivery is due and the buyer is aware of the fact that the goods are placed at his disposal at that place.

69.3 If the contract relates to goods not then identified, the goods are considered not to be placed at the disposal of the buyer until they are clearly identified to the contract.

Section 70

If the seller has committed a fundamental breach of contract, sections 67, 68 and 69 do not impair the remedies available to the buyer on account of the breach.

Chapter 5
Provisions common to the obligations of the seller and the buyer

Subchapter I
Anticipatory breach and installment contracts

Section 71

71.1 A party may suspend the performance of his obligations if, after the conclusion of the contract, it becomes apparent that the other party will not perform a substantial part of his obligations as a result of:

(a) a serious deficiency in his ability of perform or in his creditworthiness; or

(b) his conduct in preparing to perform or in performing the contract.

71.2 If the seller has already dispatched the goods before the grounds described in section 71.1 become evident, he may prevent the handing over of the goods to the buyer even though the buyer holds a document, which entitles him to obtain them. The present section relates only to the rights in the goods as between the buyer and the seller.

71.3 A party suspending performance, whether before or after dispatch of the goods, must immediately give notice of the suspension to the other party and must continue with performance if the other party provides adequate assurance of his performance.

Section 72

72.1 If prior to the date for performance of the contract it is clear that one of the parties will commit a fundamental breach of contract, the other party may declare the contract avoided.

72.2 If time allows, the party intending to declare the contract avoided must give reasonable notice to the other party in order to permit him to provide adequate assurance of his performance.

72.3 The requirements of section 71 do not apply if the other party has declared that he will not perform his obligations.

Section 73

73.1 In the case of a contract for delivery of goods by installments, if the failure of one party to perform any of his obligations in respect of any installment constitutes a fundamental breach of contract with respect to that installment, the other party may declare the contract avoided with respect to that installment.

73.2 If one party's failure to perform any of his obligations in respect of any installment gives the other party good grounds to conclude that a fundamental breach of contract will occur with respect to future installments, he may declare the contract avoided for the future, provided that he does so within a reasonable time.

73.3 A buyer who declares the contract avoided in respect of any delivery may, at the same time, declare it avoided in respect of deliveries already made or of future deliveries if, by reason of their interdependence, those deliveries could not be used for the purpose contemplated by the parties at the time of the conclusion of the contract

Subchapter II
Damages

Section 74

Damages for breach of contract by one party consist of a sum equal to the loss, including loss of profit, suffered by the other party as a consequence of the breach. Such damages may not exceed the loss which the party in breach foresaw or ought to have foreseen at the time of the conclusion of the contract, in the light of the facts and matters of which he then knew or ought to have known, as a possible consequence of the breach of contract.

Section 75

If the contract is avoided and if, in a reasonable manner and within a reasonable time after avoidance, the buyer has bought goods in replacement or the seller has resold the goods, the party claiming damages may recover the difference between the contract price and the price in the substitute transaction as well as any further damages recoverable under section 74.

Section 76

76.1 If the contract is avoided and there is a current price for the goods, the party claiming damages may, if he has not made a purchase or resale under section 75, recover the difference between the price fixed by the contract and the current price at the time of avoidance as well as any further damages recoverable under section 74. If, however, the party claiming damages has avoided the contract after taking over the goods, the current price at the time of such taking over shall be applied instead of the current price at the time of avoidance

76.2 For the purposes of the preceding paragraph, the current price is the price prevailing at the place where delivery of the goods should have been made or, if there is no current price at that place, the price at such other place as serves as a reasonable substitute, making due allowance for differences in the cost of transporting the goods.

Section 77

A party who relies on a breach of contract must take such measures as are reasonable in the circumstances to mitigate the loss, including loss of profit, resulting from the breach. If he fails to take such measures, the party in breach may claim a reduction in the damages in the amount by which the loss should have been mitigated.

Subchapter III
Interest

Section 78

If a party fails to pay the price or any other sum that is in arrears, the other party is entitled to interest on it, without prejudice to any claim for damages recoverable under section 74.

Subchapter IV
Exemption

Section 79

79.1 A party is not liable for a failure to perform any of his obligations if he proves that the failure was due to an impediment beyond his control and that he could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences.

79.2 If the party's failure is due to the failure by a third person whom he has engaged to perform the whole or a part of the contract, that party is exempt from liability only if:

(a) he is exempt under section 79.1; and

(b) the person whom he has so engaged would be so exempt if the provisions of that section 79.1 were applied to him.

79.3 The exemption provided by this section has effect for the period during which the impediment exists.

79.4 The party who fails to perform must give notice to the other party of the impediment and its effect on his ability to perform. If the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, he is liable for damages resulting from such non-receipt.

79.5 Nothing in this section prevents either party from exercising any right other than to claim damages under the present regulation.

Section 80

A party may not rely on a failure of the other party to perform, to the extent that such failure was caused by the first party's act or omission.

Subchapter V
Effects of avoidance

Section 81

81.1 Avoidance of the contract releases both parties from their obligations under it, subject to any damages, which may be due. Avoidance does not affect any provision of the contract for the settlement of disputes or any other provision of the contract governing the rights and obligations of the parties consequent upon the avoidance of the contract.

81.2 A party who has performed the contract either wholly or in part may claim restitution from the other party of whatever the first party has supplied or paid under the contract. If both parties are bound to make restitution, they must do so concurrently.

Section 82

82.1 The buyer loses the right to declare the contract avoided or to require the seller to deliver substitute goods if it is impossible for him to make restitution of the goods substantially in the condition in which he received them.

82.2 Section 82.1 does not apply:

(a) if the impossibility of making restitution of the goods or of making restitution of the goods substantially in the condition in which the buyer received them is not due to his act or omission;

(b) the goods or part of the goods have perished or deteriorated as a result of the examination provided for in section 38; or

(c) if the goods or part of the goods have been sold in the normal course of business or have been consumed or transformed by the buyer in the course of normal use before he discovered or ought to have discovered the lack of conformity.

Section 83

A buyer who has lost the right to declare the contract avoided or to require the seller to deliver substitute goods in accordance with section 82 retains all other remedies under the contract and the present regulation.

Section 84

84.1 If the seller is bound to refund the price, he must also pay interest on it, from the date on which the price was paid.

84.2 The buyer must account to the seller for all benefits which he has derived from the goods or part of them:

(a) if he must make restitution of the goods or part of them; or

(b) if it is impossible for him to make restitution of all or part of the goods or to make restitution of all or part of the goods substantially in the condition in which he received them, but he has nevertheless declared the contract avoided or required the seller to deliver substitute goods.

Subchapter VI
Preservation of the goods

Section 85

If the buyer is in delay in taking delivery of the goods or, where payment of the price and delivery of the goods are to be made concurrently, if he fails to pay the price, and the seller is either in possession of the goods or otherwise able to control their disposition, the seller must take such steps as are reasonable in the circumstances to preserve them. He is entitled to retain them until he has been reimbursed his reasonable expenses by the buyer.

Section 86

86.1 If the buyer has received the goods and intends to exercise any right under the contract or the present regulation to reject them, he must take such steps to preserve them as are reasonable in the circumstances. He is entitled to retain them until he has been reimbursed his reasonable expenses by the seller.

86.2 If goods dispatched to the buyer have been placed at his disposal at their destination and he exercises the right to reject them, he must take possession of them on behalf of the seller, provided that this can be done without payment of the price and without unreasonable inconvenience or unreasonable expense. This provision does not apply if the seller or a person authorized to take charge of the goods on his behalf is present at the destination. If the buyer takes possession of the goods under this paragraph, his rights and obligations are governed by the preceding paragraph.

Section 87

A party who is bound to take steps to preserve the goods may deposit them in a warehouse of a third person at the expense of the other party provided that the expense incurred is not unreasonable.

Section 88

88.1 A party who is bound to preserve the goods in accordance with section 85 or 86 may sell them by any appropriate means if there has been an unreasonable delay by the other party in taking possession of the goods or in taking them back or in paying the price or the cost of preservation, provided that reasonable notice of the intention to sell has been given to the other party.

88.2 If the goods are subject to rapid deterioration or their preservation would involve unreasonable expense, a party who is bound to preserve the goods in accordance with section 85 or 86 must take reasonable measures to sell them. To the extent possible he must give notice to the other party of his intention to sell.

88.3 A party selling the goods has the right to retain out of the proceeds of sale an amount equal to the reasonable expenses of preserving the goods and of selling them. He must account to the other party for the balance.

Part IV. Final Provisions

Section 89

As used herein, the singular includes the plural and the plural includes the singular, unless the context otherwise requires. The personal pronoun "he" includes "she" and "it" and the word "him" includes "her" and "it" unless the context otherwise requires.

Section 90

The present regulation shall enter into force on 29 December 2000.

Bernard Kouchner
Special Representative of the Secretary-General

REGULATION NO. 2000/69

ON THE IMPORTATION OF LIVE ANIMALS INTO KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo and UNMIK Regulation No. 2000/27 of 28 April 2000 on the Establishment of the Administrative Department of Agriculture, Forestry and Rural Development,

For the purpose of monitoring and regulating the importation of live animals into Kosovo,

Hereby promulgates the following:

Section 1
Definitions

For the purposes of the present regulation:

(a) "Importation" shall include the introduction of live animals into Kosovo through another part of the Federal Republic of Yugoslavia;

(b) "Importer" shall mean a person or entity who has been granted a licence for the importation of live animals by the Animal Health and Production Division;

(c) "Live animals" shall mean animals kept for breeding, production of food, wool, skin or fur, or for other farming purposes, including draft animals;

(d) "The Animal Health and Production Division" (hereinafter "the Division") shall mean the division within the Administrative Department of Agriculture, Forestry and Rural Development (hereinafter "the Department") responsible for regulating and supervising the importation of live animals into Kosovo,

(e) "Animal Health Office" shall mean the office within the Division responsible for supervising the inspection of live animals, including ensuring that consignments comply with the requirements of the present regulation

(f) 'Veterinary Certificate' shall mean the document issued by a qualified and authorized veterinarian that contains information on the origin and identity of the live animals and may also include assurances as to their condition of health.

(g) "Consignment" shall mean a number of live animals being imported together and which are covered by the same veterinary certificate.

(h) "Illegal Consignment" shall mean the consignments described in section 7.1 below;

(i) "Border Crossing" shall mean a border crossing between Kosovo and a country other than the Federal Republic of Yugoslavia;

(j) "Boundary Crossing" shall mean a boundary crossing between Kosovo and another part of the Federal Republic of Yugoslavia,

(k) "Border/Boundary Inspection Post" shall mean the designated point of arrival in Kosovo where the consignment is subject to inspection by a qualified and authorized Veterinary Inspector;

(l) "Border/Boundary Crossing Certificate" shall mean the certificate issued by a Veterinary Inspector confirming that the consignment meets the conditions of import and authorizing the transportation of the animals to the holding station;

(m) "Veterinary Inspector" shall mean a qualified veterinarian appointed or authorized by the Department to verify the compliance of the consignment with the Animal Health Code of the Office International des Epizooties (OIE) and European Union regulations on welfare of animals during transportation and other applicable laws relating to the importation of live animals into Kosovo;

(n) "Farm" shall mean any holding area on which live animals are kept for the purpose of breeding, production, raising or fattening;

(o) "Holding Station" shall mean any establishment, construction or, in the case of an open air farm, any place in Kosovo in which live animals are temporary held, kept or handled; and

(p) "Keeper" shall mean any authorized person responsible for the consignment, whether on a permanent or temporary basis, including during transportation or at a market. A person whose responsibility is limited to transportation of a consignment of animals shall not be considered a keeper of the live animals in question.

Section 2
Requirements for Licenses

2.1 Any person or entity who wishes to import live animals into Kosovo shall first apply for an import licence from the Division.

2.2 An application for an import licence shall be submitted on the form attached as Annex I to the present regulation. A duly completed application shall be submitted to the Division not less than eight (8) days prior to the intended date of importation into Kosovo.

2.3 An application shall be accompanied by an original veterinary certificate which shall be

(a) Signed and dated by an official veterinarian of the veterinary authority of the country of export;

(b) Printed in the language of the veterinarian signing it and, if in a language other than English, accompanied by an official English translation; and

(c) Issued for a single consignment and valid for a period of ten (10) days from the date of the veterinary health examination of the animals referred to therein.

2.4 In addition to the veterinary certificate referred to in section 2.3 above, an application shall be accompanied by a confirmation that the consignment satisfies the requirements of the International Zoosanitary Code of the Office International des Epizooties (OIE) and European Union Regulations on the importation of live animals, as well as, the requirements of the Department for each specific type of animal that shall be set forth in administrative directions.

2.5 Where an application satisfies the criteria set out in sections 2.3 and 2.4 above, the Division shall promptly issue a licence to the applicant for the importation of the consignment of live animals described in the application.

2.6 The Division shall charge a fee of fifty (50) DEM for the issuance of a licence. The revenue derived from the issuance of import licences shall be deposited into the Kosovo Consolidated Fund.

Section 3
Border/Boundary Inspection Post

3.1 Upon the issuance of an import licence, the Division shall inform the relevant border/boundary inspection post at which the consignment will arrive, furnishing a copy of the application and the licence indicating the intended date of import into Kosovo.

3.2 The importer shall confirm the date of importation in writing to the relevant border/boundary inspection post not less than forty-eight (48) hours in advance of the intended date of importation. The notification shall specify the nature of the consignment, the number of live animals involved and the estimated time of arrival. In the event of a cancellation or change in the date of importation, the importer shall be required to provide timely notification in writing to the Division and the relevant border/boundary post of such cancellation or change.

3.3 Each border/boundary inspection post shall operate under the authority of a qualified and authorized Veterinary Inspector who shall be present at the border/boundary inspection post for veterinary checks of consignments.

3.4 The Veterinary Inspector may be assisted by specially trained assistants acting under his/her authority and supervision.

Section 4
Officially designated Border and Boundary Crossings

4.1 For the purposes of the present regulation, the officially designated border crossings shall be:

(a) Hani i Elezit/Djeneral Jankovic;

(b) Vrbnica/Vermice, and

(c) Pristina Airport.

4.2 For the purposes of the present regulation, the officially designated boundary crossings shall be:

(a) Kula Pass (NNW Peja/Pec); and

(b) Mucibaba (SSE of Kamenica).

4.3 Consignments of live animals shall be permitted to enter Kosovo only through the above-mentioned border/boundary crossings that shall be operational daily from 08.00 until 20.00 hours.

Section 5
Inspection of Consignments

5.1 The Veterinary Inspector on duty shall not be required to inspect a consignment for which prior notice was not given.

5.2 Veterinary inspections shall be carried out only between 08.00 and 20.00 hours.

5.3 On arrival at the border/boundary crossing, the importer shall present to the Veterinary Inspector, the licence issued by the Division and the veterinary certificate issued by an official veterinarian of the country of export or origin, as well as, the documents evidencing the importer's compliance with the requirements of importation applicable to the type of animal(s) being imported.

5.4 The consignment shall be subject to documentary and identity checks, and physical examination. The Veterinary Inspector shall confirm that the consignment conforms to the description of the consignment in the licence and that it complies with the requirements of the Animal Health Code of the Office International des Epizooties (OIE) and European Union regulations on welfare of animals during transportation.

5.5 The consignment shall not be permitted to enter Kosovo without a Border/Boundary Crossing Certificate issued by the Veterinary Inspector confirming that:

(a) The veterinary checks have been completed;

(b) The consignment meets the importation requirements; and

(c) The transportation of the consignment to the holding station or the designated slaughterhouse is authorized

Section 6
Holding Stations

6.1 Subsequent to the issuance of a Border/Boundary Crossing Certificate, each consignment shall be transported to the holding station indicated on the relevant import licence application submitted by the importer and subsequently authorized by the Division. The Division shall make appropriate monitoring arrangements to obtain confirmation that the consignment is taken to the designated holding station.

6.2 At the holding station, the animals shall be kept in isolation and observed for a period of twenty-eight (28) days for signs of injury or disease by a qualified and authorized veterinarian of that municipality. During this period, each consignment shall be kept separately from any and all other consignments. No animal from a consignment shall be separated from the consignment prior to the end of the isolation period.

6.3 Where, following the end of the isolation period, the veterinarian determines that the health condition of the entire consignment is satisfactory and meets all the requirements, he/she shall issue a veterinary certificate of good health to the importer. No further observation shall be necessary and the consignment shall be released.

6.4 Where the live animals are for slaughter, they shall not be kept in isolation but shall be transported directly from the border/boundary crossing point to the designated slaughter house where they shall be inspected by a qualified and authorized veterinarian of that municipality and, if found to be in satisfactory health condition, authorization for slaughter shall be granted.

6.5 Where the live animals are destined for fattening prior to slaughter, sections 6.1, 6.2 and 6.3 above shall apply.

Section 7
Illegal Consignments

7.1 For the purposes of the present regulation, a consignment of live animals shall be considered illegal if:

(a) No notification of importation of the consignment has been given by the importer pursuant to section 3.2 above;

(b) The consignment is not in conformity with the veterinary certificate submitted at the time of application for licence pursuant to section 2.3 above;

(c) The consignment is not accompanied by an import licence issued by the Division pursuant to section 2.5 above;

(d) The consignment is taken to a destination other than that indicated on the licence;

(e) The consignment is moved from the holding station without the prior approval of a qualified and authorized veterinarian of the municipality;

(f) The live animals comprising the consignment show signs of disease on arrival or shortly thereafter;

(g) The route plan or transport certificate accompanying the consignment has not been adhered to; and

(h) The vehicles and containers used for the transportation of the animals have not been cleansed and disinfected immediately following use.

7.2 The Veterinary Inspector who determines that a consignment is illegal may order the isolation, testing, slaughter/destruction or re-export of that consignment.

7.3 The full costs of any action taken in relation to an illegal consignment shall be borne by the importer or its representative.

Section 8
Inspection Fees

8.1 The Office shall levy fees for the inspection of live animals imported into Kosovo. Such fees shall be set forth in administrative directions for each specific type of live animal.

8.2 Revenue derived from inspection fees shall be deposited into the Kosovo Consolidated Fund.

Section 9
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 10
Applicable Law

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 11
Entry into Force

The present regulation shall enter into force on 30 December 2000.

Bernard Kouchner
Special Representative of the Secretary General

ANNEX 1

UNITED NATIONS
United Nations Interim Administration Mission in Kosovo
Department of Agriculture, Forestry and Rural Development

UNMIK
DAFRD

NATIONS UNIES
Mission d'Administration Intérimaire des Nations Unies au Kosovo
Département de l'Agriculture, des Forets et du Developpement Rural

Application for the issuance of an Import license authorizing the import and transportation of live animals pursuant to section 2 of UNMIK Regulation No. 2000/69

APPLICATION FORM

1. Department issuing the license: **UNMIK** **ADMINISTRATIVE DEPARTMENT OF AGRICULTURE, FORESTRY AND RURAL DEVELOPMENT** Economic Faculty Bldg, Pristina. Ph: 381 038 504604 6811 /Fax.–6816	2. Date and place of registration of the application. 3. Registration Number of the application:
4. Applicant (name and full address).	5. Business Registration Number: 6. Number of the original veterinary certificate:
7. EAR TAGs Numbers:	8. Exporter (name and full address) and exporting country: 10. Animal description and breed:
9. Tariff classification in accordance with the Harmonised System Goods Nomenclature (6 digits)	11 Means of transport: air/road/rail
12. Quantity in figures (unit of measurement indicating unit and total weight):	13. Quantity in words:
14. Route:	
15. Attachments:	

The undersigned declares that the details contained in the application form are complete, correct and true to the best of his/her knowledge. He/She is aware of the fact that he/she may be prosecuted for knowingly providing incorrect information

Place and date _____

Stamp

_____
Applicant's signature and stamp

* In case of liability with respect to this application shall attach to the DAFRD APHO, to any [illegible]

REGULATION NO. 2001/1

ON THE PROHIBITION OF TRIALS IN ABSENTIA FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

Taking into account the egregious nature of violations of international humanitarian law and the particular need to ensure the proper administration of justice in cases where such crimes have been committed,

Taking into account the rights of the accused, and in particular, the right to a fair hearing,

Hereby promulgates the following

Section 1
Prohibition on Trials in Absentia for Violations of International Humanitarian Law

No person may be tried in absentia for serious violations of international humanitarian law, as defined in Chapter XVI of the applicable Yugoslav Criminal Code or in the Rome Statute of the International Criminal Court (17 July 1998).

Section 2
Applicable Law

The present regulation shall supersede any other provision in the applicable law which is inconsistent with it

Section 3
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 4
Entry into Force

The present regulation shall enter into force on 12 January 2001 and shall apply also to criminal proceedings pending as of that date.

Bernard Kouchner
Special Representative of the Secretary-General

REGULATION NO. 2001/2

AMENDING UNMIK REGULATION NO. 2000/6, AS AMENDED, ON THE APPOINTMENT AND REMOVAL FROM OFFICE OF INTERNATIONAL JUDGES AND INTERNATIONAL PROSECUTORS

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Having promulgated UNMIK Regulation No. 2000/6 of 15 February 2000 on the Appointment and Removal from Office of International Judges and International Prosecutors and Regulation No. 2000/34 of 27 May 2000 amending UNMIK Regulation No. 2000/6,

For the purpose of enhancing the judicial process and the proper administration of justice,

Hereby amends UNMIK Regulation No. 2000/6, as amended, by revising section 5, adding new sections 1.4, 1.5, 1.6, 6 and 7, and renumbering the previous section 6 as section 8.

Consequently, the regulation will have the following wording as of the date on which the present regulation enters into force

REGULATION NO. 2000/6

ON THE APPOINTMENT AND REMOVAL FROM OFFICE OF INTERNATIONAL JUDGES AND INTERNATIONAL PROSECUTORS

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

For the purpose of assisting in the judicial process in Kosovo,

Hereby promulgates the following

Section 1
Appointment and Removal from Office of
International Judges and International Prosecutors

1.1 The Special Representative of the Secretary-General may appoint and remove from office international judges and international prosecutors, taking into account the criteria set forth under sections 2 and 4 of the present regulation. Such appointments shall be made to any court or public prosecutor's office in the territory of Kosovo.

1.2 International judges shall have the authority and responsibility to perform the functions of their office, including the authority to select and take responsibility for new and pending criminal cases within the jurisdiction of the court to which he or she is appointed.

1.3 International prosecutors shall have the authority and responsibility to perform the functions of their office, including the authority and responsibility to conduct criminal investigations and to select and take responsibility for new and pending criminal investigations or proceedings within the jurisdiction of the office of the prosecutor to which he or she is appointed.

1.4 An international prosecutor may undertake, resume or continue prosecution of a case, utilizing the procedures applicable to an injured party prosecution as set forth in Articles 60, 61 and related articles of the applicable Yugoslav Criminal Procedure Code. In exercising such a power, a international prosecutor shall:

(a) have full rights as a public prosecutor acting as an officer of the government;

(b) undertake, resume or continue a prosecution within 30 days from the date of receipt of the notification referred to in section 1.6; and

(c) not be constrained by requirements or procedures of Articles 403 – 407, inclusive, of the applicable Yugoslav Criminal Procedure Code.

1.5 An international prosecutor may appeal a decision by a panel of judges to dismiss an inquiry, in accordance with Article 171 of the applicable Yugoslav Criminal Procedure Code.

1.6 The responsible authority for notifying the injured party for the purposes of Articles 60 and 61 of the applicable Yugoslav Criminal Procedure Code shall also notify the competent international prosecutor assigned to the relevant District Court or Prosecutor's Office within fourteen (14) days. Where no international prosecutor has been assigned to that District Court or Prosecutor's Office, the responsible authority shall notify the Department of Judicial Affairs which shall, in turn, immediately notify an international prosecutor.

Section 2
Criteria for International Judges and International Prosecutors

International judges and international prosecutors shall:

(a) have a university degree in law;

(b) have been appointed and have served, for a minimum of 5 years, as a judge or prosecutor in their respective home country;

(c) be of high moral integrity; and

(d) not have a criminal record.

Section 3
Oath or Solemn Declaration

Upon appointment, each international judge and international prosecutor shall subscribe to the following oath or solemn declaration before the Special Representative of the Secretary General:

"I,_____, do hereby solemnly swear (or solemnly declare) that:

In carrying out the functions of my office, I shall act in accordance with the highest standards of professionalism and with utmost respect for the dignity of my office and the duties with which I have been entrusted. I shall perform my duties and exercise my powers impartially, in accordance with my conscience and with the applicable law in Kosovo.

In carrying out the functions of my office, I shall uphold at all times the highest level of internationally recognized human rights, including those embodied in the principles of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols.

In carrying out the functions of my office, I shall ensure at all times that the enjoyment of these human rights shall be secured to all persons in Kosovo without discrimination on any ground such as ethnicity, sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Section 4
Removal from Office of International Judges and International Prosecutors

4.1 The Special Representative of the Secretary-General may remove from office an international judge or international prosecutor on any of the following grounds:

(a) physical or mental incapacity which is likely to be permanent or prolonged;

(b) serious misconduct;

(c) failure in the due execution of office; or

(d) having been placed, by personal conduct or otherwise, in a position incompatible with the due execution of office.

4.2 An international judge or international prosecutor shall not hold any other public or administrative office incompatible with his or her functions, or engage in any occupation of a professional nature, whether remunerative or not, or otherwise engage in any activity that is incompatible with his or her functions.

Section 5
Applicable Law

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 6
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 7
Transitional Provisions

Notwithstanding Section 1.4(b), an international prosecutor may exercise the powers conferred by Section 1.4 of the present regulation in respect of cases in which the public prosecutor abandoned the prosecution prior to the date of the present regulation, provided that the international prosecutor shall exercise such powers no later than 30 days from the date of promulgation of the present regulation.

Section 8
Entry into Force

The present regulation[1] shall enter into force on 12 January 2001.

Bernard Kouchner
Special Representative of the Secretary-General

[1] The original regulation entered into force on 15 February 2000.

REGULATION NO. 2001/3

ON FOREIGN INVESTMENT IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

For the purpose of reconstructing and enhancing the economy of Kosovo and creating a viable market-based economy by attracting foreign investment,

Hereby promulgates the following:

Section 1
Purpose

The purpose of the present regulation is to create certain legal guarantees necessary to make Kosovo more attractive to foreign investment.

Section 2
Definitions

2.1 For the purposes of the present regulation:

"Authorities" means the Interim Administration of Kosovo and its successors.

"Business organization" means any organization established under the law applicable in Kosovo for the purpose of carrying on a lawful business.

"Domestic business organization" means a business organization that is not a foreign investment.

"National treatment" means that with respect to all laws, regulations, instructions and other acts having the force of law in Kosovo, foreign investments in Kosovo shall be treated not less favorably than similar domestic business organizations.

"Equity" means the ownership interest in a business organization.

"Foreign control" means the exercise by a foreign investor of over fifty per cent (50%) of the management rights of a foreign investment.

"Foreign investment" means a business organization that is at least twenty five per cent (25%) owned by a foreign investor.

"Foreign investor" includes:

(a) any natural person who is a resident or citizen of a foreign State;

(b) any legal entity that:

(i) was founded and registered under the law of a foreign State;

(ii) was founded under the law applicable in Kosovo with a legal address or principal place of business in a foreign State; or

(iii) is a foreign investment;

(c) a foreign State or administrative unit thereof; and

(d) a legal entity created by inter-governmental treaty or agreement.

"Freely usable currency" means any currency designated as such by the International Monetary Fund.

"LIBOR" means the London Interbank Offered Rate.

"Person" means a natural person or a juridical person.

"Taking" means the expropriation, nationalization, condemnation, requisition, excessive or repetitive tax, or regulatory measures which have a confiscatory effect, either alone or in the aggregate, of a foreign investment by the authorities, but does not include UNMIK's administration of property pursuant to UNMIK Regulation No. 1999/1, as amended.

2.2 As used herein, the singular includes the plural and the plural includes the singular, unless the context otherwise requires. The personal pronoun "he" similarly includes "she" and "it", and "him" includes "her" and "it" unless the context otherwise requires.

Section 3
National Treatment

The principle by which foreign investments shall be regulated is that of national treatment. In particular, but without limitation:

(a) Business organizations defined as foreign investments under the present regulation shall be organized in the same manner as similar domestic business organizations;

(b) Foreign investments are subject to approval by the authorities only to the extent that such approval would be required for similar domestic business organizations;

(c) A foreign investor may transfer his property rights, including permits, to other legally qualified persons in the same manner and to the same extent as domestic persons;

(d) Foreign investments shall have the same rights to purchase non-agricultural residential and non-residential immovable property as domestic business organizations;

(e) Foreign investors with less than a majority stake in a foreign investment shall be protected as domestic minority shareholders in accordance with the applicable law;

(f) In no event shall a foreign investment be taxed less favorably than a similar domestic business organization;

(g) The rights of foreign investors shall not be affected by the fact that the authorities may be a party to an investment contract; and

(h) Foreign investors may establish subsidiary enterprises, branches and representative offices in the same manner and to the same extent as similar domestic business organizations.

Section 4
Filing Requirements

Foreign investments may be required to file a statement with the authorities identifying the principal parties and the nature of the investment solely for the purposes of statistics gathering and for identifying and conferring the benefits of foreign investment status. No other filing requirements in excess of those required of similar domestic business organizations shall be required of foreign investments.

Section 5
Sectoral Scope of Foreign Investments

With the exception of the specific industries listed in section 6, foreign investors may wholly-own and wholly control business organizations in all sectors of the economy of Kosovo. Foreign investments in strategic or other specific sectors shall be subject to the same licensing requirements by the authorities as domestic business organizations.

Section 6
Restrictions on Foreign Investment

Foreign investors may have not more than a forty nine per cent (49%) ownership or control interest in business organizations that are manufacturers or distributors of military products.

Section 7
Protection regarding Takings

7.1 Foreign investments shall not be subject to a taking by the authorities except as provided in the subsections below. The authorities may effect a taking of a foreign investment only if such a taking:

(a) is for an overriding public purpose,

(b) is the least burdensome available means to satisfy that overriding public purpose,

(c) is made on a non-discriminatory basis, in accordance with due process of law, and

(d) is accompanied by prompt, adequate and effective compensation to the foreign investor.

7.2 A foreign investor who claims that his foreign investment has been subject to a taking shall be entitled to a prompt judicial or administrative hearing or a hearing before some other competent authority in accordance with due process of the law. If it is determined at the hearing that the claim is valid, the authority hearing the case shall assess the value of the claim and order the timely payment of compensation. Said compensation shall be equivalent to the fair market value of the foreign investment which is the subject of the taking immediately prior to the taking, but if information concerning the taking had become publicly known prior to the taking, then the value of the investment taken shall be calculated, if the foreign investor so elects, as its fair market value immediately before the event that made the taking publicly known.

7.3 The compensation shall be in the form of a freely useable currency, and shall include interest at the one-year LIBOR rate for the period between the date of the taking and the date of complete payment of the compensation.

7.4 As an alternative to the hearing provided above, the fair market value of the subject of the taking may be determined by other agreed means.

Section 8
Redress for Extraordinary Losses

Foreign investments that incur losses as a result of a war or other military conflict, revolution, emergency situation, civil conflicts, civil unrest or other similar circumstances shall have legal rights and protections not less favorable than those available to similar domestic business organizations.

Section 9
Guarantees for Unrestricted Use of Income

9.1 Foreign investors shall have the unrestricted right to use their investments and any incomes lawfully received therefrom for any lawful purposes. All lawful proceeds of the operations of a foreign investment may be retained by the foreign investment, apart from tax and any other liabilities, or disposed of in any matter, including repatriation or conversion to another currency in any domestic or foreign market

9.2 Foreign investments shall have the same rights as similar domestic business organizations to open bank accounts There shall be no legal restrictions on the currencies in which such accounts may be opened and operated. Subject to tax and other liabilities, foreign investments may freely transfer lawfully-acquired funds, regardless of their source and without delay, into and out of Kosovo

Section 10
Protection from Intellectual Property Abuses

The authorities shall enforce trademark, copyright and patent laws, and any applicable related international conventions.

Section 11
Access to Public Information

Foreign investors shall have direct and open access to all laws and decisions of courts or other adjudicative bodies and to any other public information which bears a rational nexus to their investment interests.

Section 12
Protection against the Retroactive Application of Adverse Laws

No law, regulation, instruction or other act having the force of law that imposes less favorable conditions on any foreign investment than those existing when the foreign investment was made may be applied retroactively.

Section 13
Prohibition against Favoritism and Discrimination

No official, agency, law or other legal authority shall discriminate against investors from a particular country or give special treatment to prospective foreign investors based upon their country of origin or nationality.

Section 14
Application of the Laws of Kosovo

Unless otherwise provided by the present regulation, foreign investments must abide by the same laws that apply to domestic business organizations, in particular, and without limitation:

(a) Any licenses or other permits for conducting specific business activities that are required of domestic business organizations shall be similarly required of foreign investments;

(b) Foreign investments must maintain business books and records in accordance with the same accounting standards that apply to similar domestic business organizations;

(c) Foreign investments are subject to the same insurance requirements that apply to similar domestic business organizations; and

(d) Foreign investments shall be taxed in the same manner as similar domestic business organizations.

Section 15
Adherence to Ethical Business Principles

Foreign investors shall observe business practices consistent with the principles of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Council of Europe, Strasbourg, 8 July 1990), the Convention on Combating Bribery of Foreign Government Officials in International Business Transactions (Organisation for Economic Cooperation and Development, Paris, 21 November 1997), the Criminal Law Convention on Corruption (Council of Europe, Strasbourg, 27 January 1999), and the Civil Law Convention on Corruption (Council of Europe, Strasbourg, 4 November 1999), and the violation thereof may be cause for disqualification from business operations in Kosovo.

Section 16
Labour and Employment

16.1 Employees of foreign investments in Kosovo, regardless of nationality, shall be subject to the laws applicable in Kosovo.

16.2 Labour relations between foreign investments and their employees shall be regulated by their labour agreements. These labour agreements may not establish standards lower than the mandatory requirements of Kosovo. The concept of worker self-management shall not apply to foreign investments.

16.3 Foreign investments shall have the right to employ legal entities and natural persons, including foreign nationals, in order to conduct their investment and business activities.

16.4 Foreign investments shall have the right to employ managers and staff of any nationality.

Section 17
Resolution of Investment Disputes

The courts of Kosovo shall have jurisdiction over the resolution of business disputes. Notwithstanding the above, the parties to a foreign investment may specify any arbitration or other dispute resolution procedure upon which they may agree, and if such an agreement between the parties so provides, any judgment resulting from such an agreed procedure shall be final and shall be enforceable, without review or appeal in any manner, in any court of competent jurisdiction in Kosovo.

Section 18
Entry Into Force

The present regulation shall enter into force on 12 January 2001

Bernard Kouchner
Special Representative of the Secretary-General

REGULATION NO. 2001/4
ON THE PROHIBITION OF TRAFFICKING IN PERSONS IN KOSOVO

The Special Representative of the Secretary-General

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation Number 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

For the purpose of creating specific legislation for the prosecution and punishment of perpetrators of the crime of trafficking in persons and related criminal acts, and the assistance and protection of victims of trafficking and of related criminal acts,

Hereby promulgates the following:

CHAPTER I: Criminal Acts and Penalties

Section 1
Definitions

1.1 For the purposes of the present regulation:

(a) "trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

(b) "exploitation" as used in subparagraph (a) shall include, but not be limited to, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

1.2 The consent of a victim of trafficking in persons to the intended exploitation set forth in section 1.1 shall be irrelevant where any of the means set forth in section 1.1(a) have been used against a victim of trafficking.

1.3 The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in section 1.1(a).

Section 2
Trafficking in Persons

2.1 Any person who engages or attempts to engage in trafficking in persons commits a criminal act and shall be liable upon conviction to a penalty of two (2) to twelve (12) years' imprisonment.

2.2 Where the victim of trafficking is under the age of 18 years, the maximum penalty for the person engaging in trafficking shall be up to fifteen (15) years' imprisonment.

2.3 Any person who organizes a group of persons for the purpose of committing the acts referred to in paragraphs 2.1 and 2.2 shall be liable upon conviction to a penalty of five (5) to twenty (20) years.

2.4 Any person who, through negligence, facilitates the commission of trafficking in persons commits a criminal act and shall be liable upon conviction to a penalty of six months to five (5) years' imprisonment.

Section 3
Withholding of Identification Papers

Any person who, acting or purporting to act as another person's employer, manager, contractor or employment agent, intentionally withholds that other person's personal identification documents and/or passport commits a criminal act and shall be liable upon conviction to a penalty of six (6) months to five (5) years' imprisonment.

Section 4
Using or Procuring Sexual Services of Person in a Situation of Sexual Exploitation

4.1 Any person who uses or procures the sexual services of a person with the knowledge that that person is a victim of trafficking in persons commits a criminal act and shall be liable upon conviction to a penalty of three (3) months to five (5) years' imprisonment.

4.2 Where the person providing the sexual services referred to in section 4.1 is under the age of 18 years, the maximum penalty for the person convicted of using or procuring such services shall be up to ten (10) years' imprisonment.

CHAPTER II: Investigation, Confiscation and Court Procedures

Section 5
Investigations

5.1 The taking of a statement by a law enforcement officer or investigating judge shall in no way inhibit or delay the voluntary repatriation of an alleged victim of trafficking.

5.2 Appropriate measures shall be taken for witness protection during any investigation and/or court proceedings arising under the present regulation.

Section 6
Confiscation of Property and Closure of Establishments

6.1 Property used in or resulting from the commission of trafficking in persons or other criminal acts under the present regulation may be confiscated in accordance with the applicable law. The personal property of the victims of trafficking shall not be confiscated wherever it can be immediately identified by the law enforcement officer as such.

6.2 Where there are grounds for suspicion that an establishment, operating legally or illegally, is involved in, or is knowingly associated with trafficking in persons or other criminal acts under the present regulation, an investigating judge may, upon the recommendation of the public prosecutor, issue an order for the closing of such establishment.

6.3 A reparation fund for victims of trafficking shall be established by administrative direction and shall be authorised to receive funds from, *inter alia*, the confiscation of property pursuant to section 6.1.

Section 7
Court Proceedings

7.1 Except with the leave of the president of the panel of judges, it shall not be permissible for a defendant charged with a criminal act under the present regulation to introduce evidence of the alleged character or personal history of the alleged victim.

7.2 A defendant may petition the president of the panel of judges to allow the introduction of evidence of the alleged character or personal history of the alleged victim. Upon receiving such petition, the president of the panel of judges shall conduct a hearing in camera during which the defendant and the prosecution shall have the opportunity to be heard.

7.3 Following the hearing in camera, the president of the panel of judges shall only grant leave to introduce evidence of the alleged character or personal history of the alleged victim if satisfied that the evidence is of such relevance, and its omission would be so prejudicial to the defendant, as to result in a miscarriage of justice for the defendant if not allowed to be introduced. In such cases, the president of the panel shall establish the limits within which such evidence or questions may be introduced.

7.4 In cases before the court involving charges of criminal acts under the present regulation, the court may permit the alleged victims and witnesses to present their evidence in camera or by electronic or other special means, as the court sees fit.

Section 8
Defence Available to a Victim of Trafficking

A person is not criminally responsible for prostitution or illegal entry, presence or work in Kosovo if that person provides evidence that supports a reasonable belief that he or she was the victim of trafficking.

CHAPTER III: Victim Protection and Assistance

Section 9
Victim Assistance Coordinator

9.1 Subject to section 9.2, the Special Representative of the Secretary-General shall appoint a Victim Assistance Coordinator who shall be responsible for coordinating the implementation of the present regulation, particularly the provisions set out in section 10 below. In the exercise of his or her duties, the Victim Assistance Coordinator shall liase with the relevant law enforcement authorities, international and non-governmental or other organisations, and administrative departments as necessary.

9.2 Expenses arising from the implementation of the provisions under Chapter III of the present regulation shall be funded, to the extent resources are available, from donor contributions made specifically for this purpose and recorded as designated donor grants in the Kosovo Consolidated Budget. The Victim Assistance Coordinator may also request other funds to be allocated for these purposes in the Kosovo Consolidated Budget.

Section 10
Assistance to Victims of Trafficking

10.1 Upon the request of a person who provides to the Victim Assistance Coordinator reasonable grounds for belief that she or he is a victim of trafficking, the following services shall be provided to that person, subject to availability of resources provided in accordance with section 9.2:

(a) free interpreting services in the language of their choice;

(b) free legal counsel in relation to trafficking issues (criminal or civil);

(c) temporary safe housing, psychological, medical and social welfare assistance as may be necessary to provide for their needs; and

(d) such other services as shall be specified in an administrative direction.

10.2 The services and facilities for the assistance of victims of trafficking shall be available to such victims, in accordance with section 10.1, regardless of any charges of prostitution or of illegal entry, presence or work in Kosovo that may be pending against them.

10.3 Law enforcement officers shall advise persons who are suspected victims of trafficking at the earliest available opportunity of their right to request the services and

facilities set out in the present section and shall contact the appropriate persons to arrange the requested assistance.

Section 11
No Deportation of Trafficking Victims for Certain Convictions

A conviction for prostitution or a conviction for illegal entry, presence or work in Kosovo shall not be the basis for deportation if the person who is to be deported is a victim of trafficking.

Section 12
Evaluation of Refugee Status

12.1 If a victim of trafficking expresses a wish to not be returned to her or his country of citizenship or previous habitual residence based on a claim of persecution, such a claim shall be evaluated by the appropriate authority, pursuant to the applicable law, who may determine that the victim may be granted residence in Kosovo or such other assistance as deemed appropriate.

12.2 Nothing in the present regulation shall affect the protection afforded to refugees and asylum-seekers under international refugee law and international human rights law, in particular, compliance with the principle of non-refoulement as set forth in Article 33 of the 1951 Convention on the Status of Refugees.

Section 13
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 14
Applicable Law

The present regulation shall supersede any provision in the applicable law that is inconsistent with it.

Section 15
Entry into Force

The present regulation shall enter into force on 12 January 2001.

B. Kouchner

Bernard Kouchner
Special Representative of the Secretary-General